Just Give Us the Money

A Discussion of Wage Discrimination and Pay Equity

Women's Research Centre

JUST GIVE US THE MONEY:

A Discussion of Wage Discrimination and Pay Equity

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INTRODUCTION

No one can deny the fact that women simply do not get as much money as men do. Report after report demonstrates that women suffer daily from lack of money—we are more likely to be poor; we are trapped in abusive relationships because of economic dependence; and we do not have the range of choices available to men because of economic inequality. There are, of course, many factors contributing to women's economic status: the invisible (and unpaid) work we do in caring for children and men; the limitations of a culture that says that certain kinds of work are more appropriate for women; the individualism of our society that encourages us to believe that if we earn less it must be our own fault. Not the least of these reasons, however, is wage discrimination—paying women less money for the work we do because we are women.

The Purpose of this Book

Several years ago, the term *pay equity* began appearing in legislation as well as in discussions of solutions to wage discrimination against women. Some of us involved with the Women's Research Centre viewed the term with some suspicion. In previous work, we had seen how the adoption of terms to describe women's issues has a profound effect on how those issues are defined and how solutions to those issues are formulated. The term family violence, for example, frames an issue of violence against women very differently than the term wife battering. We wondered if this shift in language concerning equal pay also reflected a shift in how the issue itself was being defined. The introduction of pay equity legislation by governments in Manitoba and Ontario further piqued our curiosity concerning how the language affected the issue, since this represented a shift away from "equal pay for work of equal value"—the widely adopted term until now. Although we eventually concluded that this shift was less significant than we had originally thought, we did find that language is nonetheless relevant in defining the issues related to wage discrimination.

Our concern with language developed out of the Centre's work on the analysis of what we have called *the institutionalization of women's issues*. We define an institution as an organization with the purpose of upholding the ideology or ideas upon which the state's economic and political system is based. In studying the problem of institutionalization, we examine the way in which issues are raised by the women's movement and subsequently translated by the state to fit its own framework. It is in this process that we frequently lose control over our issues.

When we talk about the state, it is important to be clear about what we mean. Some adopt a rather narrow definition, using "the state" to mean government and its bureaucracy. From our perspective, however, while the state certainly includes government, it also encompasses "all institutions which serve to order and organize society and define what is appropriate behaviour in our relations with each other."[1] Such institutions include the media, the educational system, the church, the family, trade unions, etc.

It is important to recognize, however, that not all institutions of the state function in identical ways, nor do they have equal control and influence. Trade unions, for example, do play a role in preserving the social order by regulating the relationship between workers and other aspects of the state. But they also operate within that context to push the boundaries of that order in the perceived best interests of their memberships, often from a position of relative opposition to more dominant interests.

In the case of wage discrimination and pay equity, it is frequently governments which take legislative action in responding to the issue. However, other institutions such as the media and trade unions clearly have a significant influence on how the issue is defined and which solutions are promoted.

Another aspect of our definition of the state and its mode of operation is that we do not subscribe to a conspiracy theory concerning the way the state approaches women's issues. While we believe that government and other state institutions have an interest in maintaining the status quo, it cannot be denied that there are pressures on the state which force it to respond to women's issues and to recognize that some compromise is necessary in order to sustain its overall credibility. Attempts by the state to co-opt women's issues may not reflect a conscious, organized attempt to trick women, but rather a process of accommodating or adapting women's demands in a way that does not challenge or disrupt fundamental economic and social relationships. Since women's demands often require fundamental change, this accommodation process often does not work in our interests.

A final influence on the Women's Research Centre's decision to undertake this work was our ongoing involvement with issues related to women and the economy. While workplace issues such as wage discrimination have not always been at the centre of much of our work on the economy, the issue of the sexual division of labour, in both the paid workforce and in the home, has been. This sexual division of labour – with its attendant job segregation and wage discrimination – is a primary influence on women's economic status.

For all of these reasons, we decided to undertake a project on wage discrimination and pay equity. The way in which we proceeded with the study was influenced by each of these motivating factors – our concern with language, our interest in the institutionalization of women's issues, and our focus on women in the economy as a whole. We see our analysis as providing a contribution to developing a "map" of the relationship between women (and women's groups) and the state. By understanding how this relationship has functioned with respect to pay equity, we will be in a better position to develop future strategies – not only on wage discrimination, but on women's issues as a whole.

Methodology

Establishing our Assumptions

Our first step in carrying out this project was to establish a research committee of women with a range of experience in dealing with issues of women and work. We wanted to ensure that the committee included experience with developing and implementing strategies to advance women's economic position. The resulting committee was composed of nine women, most of whom had many years of experience with feminist organizations. Several members had past or present experience working for trade unions, and another had a long association with a working women's organization in another province. One woman approached the issue from the vantage point of her many years of experience working on poverty issues. A number of us had been involved in the Centre's work on women and the economy and the institutionalization of women's issues. While some women later had to withdraw from active participation in the committee due to other commitments, their input was invaluable in the early stages of our work.

Our initial task as a committee was to develop a set of *grounding assumptions*—our shared beliefs about the issues involved in wage discrimination and potential solutions—as well as a set of questions we wanted to address in the research. Out of the range of experience reflected in the committee's membership, we developed the following assumptions.

Our first assumption is based on the basic recognition that women simply don't get enough money. We live in a society which historically has operated on the premise that women are economically dependent. Regardless of evidence to the contrary, and notwithstanding years of struggle to improve economic conditions for women, that premise remains essentially unchanged. We concluded that if women got enough money to establish economic independence it would constitute a major threat to society. A radical restructuring of society is necessary for women to get enough money and, conversely, if women get enough money, society will necessarily be restructured.

This recognition that a radical restructuring of society is the ultimate goal does not imply, however, that efforts toward short term reform are discarded. Women need more money *now*, not some promise of economic and social revolution to come. But in our choice of short term strategies, we must be careful to choose those that move us ahead toward further advances. We should avoid those that mask the problem and allow the state to present us with a "solution" or to take power and control away from women. Given the state's allegiance to the social and economic structures of society, we must always be aware of any move to co-opt our issues.

Other assumptions arrived at by the committee relate more directly to issues concerning wages and wage discrimination. First, wages have not historically been legislated in Canada (with the exception of the minimum wage and certain restrictive measures such as wage and price controls). In addition, wage scales in general are not logical and have no defensible rationale in terms of job content. Consequently, the committee recognized that the introduction of legislation that required women to provide a rationale for their wages poses a significant departure from past practice. Furthermore, the requirement that women's wages must fit logically into a system which is essentially illogical presents another problem.

To date, all systems for providing this rationale have been based on comparison of jobs. Based on the experience of committee members, we concluded that comparison has not worked in our best interests in the past and, furthermore, it isn't used for anybody else (with the exception of management-controlled systems used mainly to justify existing wage rates). Comparison is virtually always translated into job evaluation. In addition to the problems created for women by the acceptance of comparison as a basis for determining wages, job evaluation systems present additional practical concerns. Not the least of these is the fact that job evaluation programmes are very disruptive in the workplace and pit worker against worker in their competition for points used to assess the relative value of jobs.

Nevertheless, we recognized that the business of job evaluation—and it seems to have become a business unto itself—is a very prestigious and profitable growth industry. "Human resources management," "positive employment programmes," "equal opportunities management" are flourishing across the country. Such programmes have as at least part of their function the management of equal opportunity so it doesn't get out of hand. In doing so, they make the issues complex, and hence take control away from women—women whose interests they are supposed to serve.

Objectivity and Bias

The process of establishing our assumptions about the issue of wage discrimination was an essential part of our research process. The methodology that has been developed at the Women's Research Centre over the years requires that researchers acknowledge our experience, and the assumptions born of that experience, and make use of them in the research process. More importantly, it recognizes that the point of view of those undertaking the research has a necessary impact on how that research is carried out.

This methodology challenges the concept of objectivity in research. This challenge runs counter to most accepted ideas of what constitutes "good" research, in which so-called objectivity is deemed to be the highest virtue. However, the practical effect of denying that all research has a point of view is to present as absolute truth the results of research that is necessarily coloured by the previous experience of the researcher.

This challenge to objectivity is a very difficult concept for most of us to accept. The idea that "real" research must encompass the ideal of objectivity is very well entrenched. So under most circumstances, unless the existing bias of the researcher is flagrantly expressed, we customarily accept the research as objective even though common sense may indicate that the information and analysis presented is filtered through the point of view of the researcher.

The techniques of most research are chosen to deny a point of view and bolster the ideal of objectivity. The language used to report the results of research generally excludes the presence of the researcher at all. It uses the passive voice ("it is said") rather than the active voice ("we say") to make the researcher and the researcher's perspective invisible. But the invisibility of perspective does not mean that perspective is not there. It means only that perspective is cloaked in the myth of objectivity.

The use of statistics and complex statistical methodology also functions to promote the view that "objective" is better. This is not to say that statistics cannot provide useful information which can shed light on an issue. But how one chooses to present statistics (and indeed the choice of which statistics to gather and use) is also influenced by the perspective of the researcher. The issue of wage discrimination provides a perfect example of this. The Fraser Institute, a British Columbia research institute dedicated to supporting the interests of big business and to opposing any intervention in the so-called free market system, uses statistics to demonstrate that only a tiny proportion of the wage gap is due to discrimination against women. Yet other research also uses statistics to demonstrate a contrary position—i.e. that discrimination against women is a significant (if not *the* significant) factor in sustaining the wage gap. Which use of statistics is "objective"? Or is it simply the case that the desired result can be generated from statistics depending upon who is using them?

The concept of objectivity takes on additional importance in our discussion of wage discrimination and possible solutions. Most of the solutions proposed or implemented to date rest on the assumption that it is both possible and desirable to compare, objectively, job content in the establishment of wages. Most often, this is carried out through job evaluation including complex statistical applications. However, as we will see in Chapter 6, the myth of objectivity in job comparison, as well as in research, generally obscures the assumptions and value judgements implicit in its application.

Literature Review and Interviews

After declaring our assumptions and questions, the next stage of the project consisted of collecting available literature on the issue of equal pay. In addition to materials directly related to legislation in Canada, we also sought out information on the history of women's wages in this century, programmes in other countries designed to address the issue of wage discrimination, and job evaluation. Given the central position of job evaluation to all pay equity programmes implemented to date, it was important that we gain an understanding of its application.

In the ensuing months we interviewed twenty-three people (twenty-one women and two men) in nineteen interview sessions. We conducted interviews in Vancouver, Minneapolis, Winnipeg, Toronto, Ottawa and Montreal. Our informants included those involved in women's groups, in trade unions, and in government departments involved in developing policy and/or implementing programmes related to equal pay. Most interviews lasted between 1 1/2 and 2 hours.

We recognize that this interview process could not begin to include all perspectives on the various solutions to wage discrimination that have been proposed and/or implemented. Both our own selection process and whether or not those we approached chose to participate influenced the responses we received. Unfortunately, several people we had hoped to interview because of their significant position in the activity around equal pay were unavailable, either because they indicated that they did not have time or because they did not wish to be interviewed about their contribution.

Our interviews reveal that our informants had a range of opinions on various solutions to wage discrimination. Some were fully supportive of legislative solutions, others mixed their support with some criticism, and others indicated that they do not accept the types of legislation that have been introduced to date. Furthermore, we supplemented the information gathered through these formal interviews with less lengthy and less formal discussions in person or by telephone with contacts in each Canadian location.

All of our informants were guaranteed confidentiality if they wished it. Some did not wish to be quoted, and we have respected their wishes. Others indicated that they could be quoted if not identified, and still others that they could be identified if we wished. We eventually decided to use all quotes anonymously in order to preserve confidentiality for all informants.

Our analysis of the issues involved in wage discrimination and pay equity are outlined in this report. It is based on our own experience, information gathered through the literature review, and the responses of our informants. We hope that it will stimulate discussion on solutions to wage discrimination and strategies for the women's movement in the years ahead.

Developing a Feminist Critique

The overall purpose of this project has been to analyze the experience of the women's movement in relation to wage discrimination and pay equity, and to learn from it. Of necessity, this requires recognizing both the successes and shortcomings of the women's movement and of other groups such as trade unions that are essential to achieving gains for women.

It is not an easy task. Women working within feminist organizations and unions are often understandably defensive about public criticism. We know that there are those who are only too willing to use such information against us—to attack feminism and trade unionism and to erect barriers to our advancement as women and as workers.

At the same time, it is not useful for us to pretend that grounds for criticism do not exist; to rewrite history to avoid dealing with mistakes that have been made; or to ignore our past under the guise of sisterhood and solidarity. It is simply not possible to analyze and learn from our past experience if we are not also willing to acknowledge both the strengths and the weaknesses that are demonstrated by that experience.

The task then becomes how to do this while, at the same time, being respectful of previous work. It means recognizing, as the saying goes, that hindsight is always 20/20. It means not automatically attributing malevolent motivations to past actions which we may now see as ill-advised. And it means recognizing that gaining more experience and assessing the results of that experience are precisely what allow us to analyze what has gone before and to plan for the future.

It is a very difficult process, and frequently feels like walking a tightrope. There is always the danger of alienating the very groups and individuals who should be an integral part of the debate of the issues involved. In the process of reviewing our work, we had several discussions in the committee concerning how to develop a critique that will be useful, and used, by women in feminist organizations and unions. We have not always agreed on how best to accomplish this, but have strived to resolve these disagreements while maintaining the integrity of our critique. We want to emphasize again that our purpose has been to learn from the work in the past in order to move our interests forward in the future.

In developing such a critique, we have to be aware of the influence of the differing self-interests of groups and individuals involved in a given issue. Feminist organizations begin from the experience of women and strive to translate that experience into strategies for change. It is not always easy, however, to maintain a clear understanding of that self-interest in the light of continuing pressure from government and other organizations to be "reasonable" and to fit our concerns into a framework that is acceptable to them. This may in fact lead to our basing our actions on what we believe to be *possible* rather than what our experience has shown us to be *necessary*. We may make the compromises we anticipate will be demanded of us before the demand is even made, instead of grounding our demands in our own interests and developing clear and measurable standards through which we can assess the compromises we may have to make.

Unions too, begin from self-interest, the self-interest of workers. Historically, male-dominated unions have, naturally enough, operated from a male perspective. In the light of the increased unionization of women, however, women's concerns have necessarily become more visible in the policies of the trade union movement. This change provides a challenge, and often some conflict, within the trade union movement as they seek to defend their historical traditions while at the same time accommodating the shifting balance of interests among their membership.

The fact that unions have responded to some extent to the concerns of their women members does not mean that the tensions between male-dominated unions and their female members are no longer there. Understanding the role of self-interest in determining the structure and function of organizations demonstrates that it is absolutely essential that women in unions continue to develop their own structures—women's caucuses within existing unions, broader organizations of trade union women, or women's unions—to collectively promote their interests both as workers and as women. It is not enough to rely on the goodwill of men in the trade union movement or the promotion of individual women into the union structure, as long as that structure continues to be male dominated. While some gains have been made in this way, should a fundamental conflict occur between the interests of women and men, the majority will, of course, win out. By collectively organizing in their own interests, trade union women can most effectively advance their cause. This does not imply an abandonment of the mainstream trade union movement, but rather the recognition that both types of organizing are essential to recognize both the similarities and differences in the interests of female and male workers.

It is important to recognize that to describe feminist organizations and unions as operating out of self-interest is not a criticism. Indeed, these are organizations whose very function is to defend and advance the interests of their constituencies. Generally, however, it is only organizations of less powerful groups in society whose self-interest is categorized as, at best, narrowly self-serving or, at worst, detrimental to the so-called common good. Powerful groups, such as governments or corporations, are more likely to promote themselves as serving this common good while in fact promoting their own interests.

And, indeed, governments also operate in their own self-interest. They usually cloak this, however, with the claim that they are simply balancing the demands of other interest groups—women, unions, small business, corporations, etc. But governments are not neutral arbitrators. Their function is, in part, dictated by the desire of the political party in power to get re-elected. But it is also influenced by the goals of preserving the basic social and economic structures of society, of ensuring stability, and of maintaining its own legitimacy in the eyes of the people. This, of course, means that governments will initiate those changes necessary to preserve that legitimacy, but in a way that does not fundamentally challenge the status quo.

Understanding the function of self-interest helps us to understand why organizations and the individuals who work within them act the way they do. That understanding is an important part of developing our critique, and is essential for the development of our future strategies for change.

Some Definitions

The issue of language arises several times in this paper. Language can be used, intentionally or otherwise, to remove control of an issue from those most affected by it, simply by using terms that most people do not understand. Pay equity, as we shall see in later chapters, is particularly susceptible to this problem. There is confusion among feminists and others concerned with the issue of wage discrimination about the meaning of the terms value and equity in discussions of wage discrimination. Furthermore, pay equity relies heavily on complicated job evaluation systems developed and administered by "the experts." Even those involved in the issue from a women's movement or labour movement perspective may adopt such jargon and use it as if everyone knows what they are talking about.

A related problem is that many terms have more than one meaning, depending on who is using them. For example, many feminists define "affirmative action" as positive, mandatory programmes to improve women's labour market position. Opponents of affirmative action will often imply that it means only a rigid quota system, and equate the term with "reverse discrimination," that is, discrimination against white, able-bodied men. We will see in Chapter 3 how such scare tactics can cause some people to back away from certain terms. The result is often that a term is adopted that is ambiguous (and hence will not scare anyone) and the state is quick to use such ambiguity to suit its purpose.

The following definitions outline some of the terms that we use when discussing women's employment issues and proposed solutions. The list is, of course, by no means exclusive. In addition, we will discuss the definition of the broad concepts of value and equity in Chapter 3. A further discussion of terms is included in Chapter 6, Job Evaluation.

Systemic Discrimination

A term that is frequently used in discussions of women's labour market position is *systemic discrimination*. This term recognizes that the disadvantages that women (and other groups such as minorities and the disabled) face in the labour market are not manifestations of individual prejudice, whether conscious or unconscious. Instead, the way in which the labour market as a whole operates generates the conditions that lead to the unequal treatment of women. Accepting that systemic discrimination exists implies that ensuring that individuals do not discriminate is not enough to guarantee that the situation will change. Instead, broad policy changes are necessary to improve the situation for women and other groups.

Implementation Models

A variety of *implementation models* are often referred to in discussing how to make such changes in labour market conditions. An implementation model is simply the way in which necessary changes are to be made.

One aspect of implementation models relates to who has responsibility to ensure that employment practices in a given workplace meet certain standards. A *complaints based* model requires employees to complain if they believe they are not being treated according to those standards. This is the model used in various Human Rights Acts, both federally and provincially. When one or more employees makes a complaint, an investigation is undertaken, and a hearing may be held if no solution is negotiated between the employee and the employer.

An obvious shortcoming of such an approach is that it implicitly assumes that, when discrimination occurs, it is an exceptional circumstance – i.e. that for the most part workplaces are non-discriminatory and that only occasional corrections are necessary. It also avoids the fact that employees, especially those in non-unionized workplaces, are extremely vulnerable to retaliation by employers if they register a complaint.

When the onus is on the employer to make changes in the workplace, it is usually called an *employer-initiated* or *proactive* model. Often, proactive programmes are negotiated with the union in unionized workplaces. Otherwise, employers may determine for themselves exactly how to implement change. In both unionized and non-unionized workplaces, the existence of minimum standards for the programme can provide some insurance that its stated intent is actually carried out. And clearly, there should be some mechanism through which the programme can be monitored and enforced.

Integrated models are those which combine both the proactive and complaints based approaches. Such models require employers to make certain changes, but retain the possibility of complaints by employees who continue to suffer discrimination, or who are in workplaces excluded from the proactive part of the programme (often because they work in small workplaces).

Another aspect of implementation models is how strong a responsibility is placed on the employer to make changes. At the weakest end of the spectrum, we have *voluntary compliance*. This term means exactly what it implies—ie. that the responsibility rests entirely with employers to implement changes in their policies without negative sanctions if they refuse to do it. It is, not surprisingly, the method of choice of most employers, who react strongly against "interference" in their right to set policies within their workplaces. It is also the method that has been adopted in the federal government's employment equity legislation which requires only that employers report on their progress in improving conditions for disadvantaged groups, but provides no negative sanction against employers who do not act.

Another type of "compliance" is *contract compliance*. Contract compliance means that employers who wish to obtain contracts from government must demonstrate that they meet certain minimum standards in their employment policies. For example, a government that wants to promote affirmative action may insist that an employer demonstrate that his hiring and promotion policies are consistent with that goal before a contract will be issued.

Neither voluntary compliance nor contract compliance, however, compels all employers to take positive steps to make changes in the interests of disadvantaged groups. Programmes that do require such steps are generally referred to as *mandatory* programmes. "Mandatory" means that employers must take positive action when a group is shown to be disadvantaged, or be subject to some kind of negative sanction, often a fine. Obviously, the amount of the fine an employer may be forced to pay for non-compliance will effect how "mandatory" the programme is in practice. If the cost of the penalty is less than the cost of actually making the changes, obviously employers are unlikely to comply. Similarly, the likelihood that the employer will be caught if he or she avoids making changes will also effect how seriously the programme is taken. Consequently, a truly "mandatory" programme must provide stiff penalties for those who do not co-operate as well as virtual certainly that they will be caught.

Jurisdiction

Jurisdiction simply means the level of government responsible for a given issue. In Canada, jurisdiction is determined by the Constitution, which divides responsibilities between the federal and provincial governments. Most labour policy falls under *provincial jurisdiction*. However, those who work in industries regulated by the federal government come under *federal jurisdiction* for labour policy. These include the federal civil service, the transportation and communication industries, and banking and finance. About ten per cent of Canadian workers fall under federal jurisdiction.

When we talk about pay equity specifically, the use of jargon expands. Many of the terms used relate to job evaluation. People talk about the "Hay system" or "gender neutrality" as if these were common, everyday terms. Given the importance of understanding job evaluation and it's relationship to pay equity, the entire issue (and the terminology it inspires) will be discussed in Chapter 6.

Context, Description and Debate

In our consideration of solutions to wage discrimination, we found it necessary to consider both the causes of women's unequal economic status and the development of policies and legislation with the stated purpose of providing some relief. At times our work threatened to expand to unmanageable proportions. We found it necessary, on the one hand, to include sufficient detail on the history of wage discrimination in Canada to provide a context for discussion of specific solutions, while at the same time maintaining our focus on the development of strategies by feminist groups and the state's specific responses to the issue.

The early part of this report provides a discussion of the historical factors contributing to wage discrimination, as well as the general framework adopted by feminists in the development of strategy. We will then describe the initiatives taken by women's groups, unions and governments to address wage discrimination, with a particular focus on the recent passage of pay equity legislation in several places—Minnesota, Manitoba and Ontario. We will also consider the particular role of job evaluation in the implementation of this legislation.

The final sections of the report are intended to advance the debate on strategies to address wage discrimination. We will look at the way in which issues are raised by the women's movement and how the state develops its response. Finally we will outline some alternatives to legislated pay equity and suggest a range of strategies that might be adopted in our work to get more money for women.

We do not, of course, claim to have a definitive answer. Our purpose is to stimulate debate on the development of feminist strategy—to learn from our past work in order to better advance our interests in the future.

Footnotes:

1. Barnsley, *Feminist Action, Institutional Reaction: Responses to Wife Assault*, p 10 The discussion of the state and state institutions referred to here derives substantially from the work of Dorothy Smith. See, in particular, "An Analysis of Ideological Structures and How Women are Excluded."

SOME HISTORICAL FACTORS RELATING TO EQUAL PAY

Before examining the implications of recent strategies for equal pay, it is important to consider some of the historical factors that have influenced wage setting practices. While a full history of how women (and men) are paid is beyond our scope here, several questions should be addressed to put the current situation into context. Why has it been possible and acceptable to pay women less than men? How did highly paid workers attain that position? What strategies have been used in the past to attempt to address wage discrimination? How successful have these strategies been? These questions are important because it is essential to understand how wage discrimination came to be if we are to assess whether proposed solutions really address the issue.

Justifying unequal pay

Low pay and job segregation

The history of women's wages in this century must be seen in the context of the interaction between patriarchy and capitalism. Heidi Hartmann argues that, before capitalism, a patriarchal system existed in which men controlled the labour of women and children in the family, and that in doing so men learned the techniques of hierarchical organization and control. Capitalism brought with it different demands for labour. Capitalist organization removed work from the home and created the need for a so-called "free market" in labour. While, in theory, capitalism cares little about the sex of the labour it buys (or exploits), there remained a need to sustain patriarchal authority. To do so, capitalism offered male labour a position of relative privilege compared to women workers to induce their co-operation in the creation of a new set of economic and social rules. Hartmann describes this process,

> Historically, male workers have been instrumental in limiting the participation of women in the labour market. Male unions have carried out the policies and attitudes of the earlier guilds, and they have continued to reap benefits for male workers. Capitalists inherited job segregation by sex, but they have quite often been able to use it to their own advantage. If they can supercede experienced men with cheaper women, so much the better; if they can weaken labour by threatening to do so, that's good too; or if failing that, they can use those status differences to reward men and buy their allegiance to capitalism with patriarchal benefits, that's okay too.[1]

The result of this process in Canada (as well as in Britain, the United States, Australia, etc.) was a highly segregated work force in which "women's work" was (and is) paid substantially less than men's.

It is important to recognize that this segregation of the labour market was not the result of a conscious conspiracy between representatives of capitalism and the male dominated unions. While capitalists used whatever tactics necessary to best exploit the labour force (both male *and* female), the trade union movement was simply operating in its own perceived best interests. It is tempting to adopt a simplistic explanation that portrays male workers as somehow consciously responsible for a betrayal of women workers. However, this explanation is inadequate, and does not consider the perfectly logical reasons why unions functioned as they did. In the absence of a well-organized movement of women workers, it would have been more surprising if male workers had rejected capitalism's offer of a relatively privileged position—privileged, of course, only relative to women workers. Nevertheless, the arguments advanced to justify this relatively privileged position did have the effect of marginalizing women in the labour force and rationalizing wage discrimination.

The rationales used to justify women's lower wages were easily identified. In the early part of this century, Eleanor Rathbone identified four reasons for women's inferior wages. The first was the lack of trades organization. The other factors related to beliefs about women which maintained that women simply did not need as much money: that women worked for pocket money or supplementary wages; that women have a lower standard of comfort than do men; and, at best, that women's wage requirements should be based on individual subsistence.[2] Although Rathbone wrote on the basis of her experience in Britain, a few examples from this country will demonstrate that the same factors influenced developments here.

The struggle for adequate wages involved a number of players and their attendent motivations. Employers, of course, have always tried to set wages at as low a level as possible, regardless of the sex of the employee. The ability of men to attain higher wages was based substantially on the strength of their bargaining position, often through unionization. That strength was affected by a number of factors, including the scarcity of workers possessing the skills necessary to perform the job and, obviously, the militancy of groups of workers in fighting for higher wages.

While men's struggle for better pay can be seen as essentially a two-sided fight (employers versus workers), women faced a more complex situation. They were, on the one hand, faced with the unwillingness of employers to pay them adequately. But they also suffered from the fear of male workers that women could provide unwanted competition for their jobs. Furthermore, the prevailing ideology maintained that women were simply not worth as much as men. These factors ultimately led to job segregation for women with the attendant lower wages that such segregation permits.

Ironically, the fear of competition was an important factor in leading unionized male workers to first promote equal pay for equal work. In discussing the employment position of women in Ontario in the nineteenth century, Leo Johnson describes male trade unionists' change of views on the question of equal pay. On the one hand, they accepted the prevailing view that women were inherently inferior workers and hence undeserving of equal wages. On the other hand, they came to realize that allowing employers to pay women less was not in their own self interest. Eventually, one can suppose, self interest took precedence over pride in male superiority. And ultimately, the adoption of equal pay for equal work allowed these two attitudes to be reconciled. Johnson outlines this process, saying,

> The initial reaction of the male workers to the employment of women and children had been to oppose equal wages for them. They argued that women were not by nature equal, nor did they have equal economic responsibilities. To pay women at the same rate as men, they believed, was both unjust and

> demeaning to working men. Naturally a number of leading women took up the fight for equal pay, and a good deal of intra-sexual warfare took place around the equal pay issue. Finally, cooler heads among the crafts workers began to prevail. Rather than opposing equal wages for women, they believed that men should make equal wages for women a key demand. Women and children, they argued, were naturally inferior workers, and to enforce lower wages for them simply had the effect of making their labour competitive with that of men. If employers were required to pay equal wages for women and children, and to provide even higher standards of factory conditions for them than for men, the results would ultimately exclude women from the labour market.[3]

This change of heart on the part of male unions co-ordinated nicely with the type of appeal made to the middle and upper classes against the employment of women. This latter argument was essentially a moral one, reinforcing the need for female "purity" that was important at the time. Mixing of the sexes in the workplace was portrayed as a source of moral breakdown among women workers. So although appeals against the employment of women were ultimately unsuccessful, the separation of the sexes in the workplace was achieved. Johnson concludes,

> Within the factory and the office, an apartheid system was developed in which certain tasks were designated as "women's work" and paid low wages. As a result, both male goals were achieved. For the capitalists, women still provided a source of cheap, industrial labour, while for working-class men, there was a reduction of direct job competition from cheap female labour.[4]

The segregation of women workers also influenced their ability to bargain for higher wages by excluding them from categories of work requiring relatively scarce skills. This fact combined with the argument that women simply did not need as much money as men because they did not have the responsibility of dependents and, indeed, because they were most often dependents themselves. Hence, wage discrimination against women was an acceptable and accepted reality, and it was very difficult for women to organize in their own interests.

The fact that women workers were so grossly underpaid was an important factor in the introduction of the minimum wage. However, it was not necessarily women workers themselves who chose this method of gaining some measure of economic security. Josie Bannerman, Kathy Chopik and Ann Zurbrigg, writing of the situation in British Columbia, suggest that the lack of a collective base for women workers to articulate their concerns meant that it was trade union men and middle class women's groups who decided that a minimum wage law would solve the low wage problem of women workers. They also suggest that it was the fear of women turning to prostitution and crime because they could not live on such low wages that eventually prompted acceptance of the minimum wage.[5] The first women's minimum wage law was passed in British Columbia in 1918. Significantly, the Act defined the minimum wage as one which should be "adequate to supply the necessary cost of living." It assumed, once again, that women were, at most, economically responsible only for themselves. It was a victory in that most women workers covered by the Act did receive higher wages as a result. It did not, however, use the value of the work women did as an argument for increasing those wages.

The Family Wage

The introduction of such minimum wage provisions was perfectly consistent with the idea of the "family wage," a concept also used to justify the higher wages of men. The "family wage" means, essentially, that a man ought to earn enough to allow him to support a wife and children. It also, however, has the additional, if often unacknowledged, effect of reinforcing the subordination of women in both the labour force and in the home.

The family wage became an important factor in the determination of wages throughout this century. In some countries, such as Australia where greater intervention in the establishment of wages is the norm, the family wage became an integral part of the wage setting apparatus. It was first established in 1907 as the "living wage" for male workers by the Commonwealth Arbitration Court. Furthermore, in 1912 another Arbitration Court judgement ruled that equal pay could only be granted in "men's industries" in order to protect male workers from cheap female labour, and should not be granted in "women's industries" where men did not have to be protected.

A great deal of controversy has surrounded the family wage and, in particular, its adoption by the trade union movement in this century as a means of maintaining or improving the male wage. Michelle Barrett and Mary McIntosh outline the two main sides of the debate surrounding the issue of whether the family wage was beneficial to working class families. On the one hand, they cite Jane Humphries who maintains that the family wage system brings material benefits: it provides a non-degrading form of support for non-labouring members of the working class; it gives the working class a lever on the supply of labour and therefore enables it to resist a fall in the value of labour power; and it has historically been crucial for the creation and transmission of a militant class consciousness, and has motivated political struggle.

Put more simply, this argument suggests that women, or at least married women, are better off under a family wage system because it frees them to put their energies into unpaid work in the home which implicitly improves the family's standard of living. Adherents to this position would claim that, while it is unfortunate that power relationships in the home are reinforced by this, the woman is materially better off. The question of whether the woman would perhaps be better off with access to an independent equal wage is not addressed, and the influence of power relationships within the family is given far too little importance.

Furthermore, it is said that having some control over the availability of labour power (i.e. through the ability of women *not* to work for wages) means that labour's negotiating position is improved. Ultimately, by this argument, men and women have been united by the family wage for their mutual self interest. It seems clear to us, however, that "mutual" self interest is necessarily dependent on the power relationships referred to above, and the assumption that the subordination and dependence of women in the family need not be challenged. While this appeal to the apparent mutual self interest of men and women may well have been a selling point in generating support for the family wage, it also obscured the double exploitation of women workers in the home and in the workplace.

Barrett and McIntosh themselves also reach a very different conclusion which recognizes this obscuring of the real function of the family wage. They argue that a family wage system,

> . . . would enforce the dependency and oppression of women and subject unsupported women, especially mothers, to severe poverty; have no necessary effect on the value of labour power; and divide and weaken the working class by reducing militancy, creating the conditions for conflict between individual women and men in the labour market, and by perpetuating the view that the support of non-labourers should be met by the wage rather than by the state.[6]

While some of Barrett and McIntosh's conclusions seem influenced by their desire to find absolute congruence between the interests of women and men workers, we agree with their conclusion that the family wage was advanced at the expense of women both in the home (where dependence is reinforced) and in the labour force (where women are underpaid and marginalized). Once again, the adoption of the family wage was promoted through appeals to self interest, while masking its function in maintaining the dependence of women in general and the double exploitation of women workers.

While the family wage may not have been mandatory in Canada, it nevertheless became an accepted principle upon which to justify wages. We have already pointed out that the establishment of the minimum wage for women in British Columbia was based on the assumption that they had only themselves to support. The same policy was reflected in the establishment of wage policies nationally. Conversely, the policies also reflected the concept of the family wage as the criteria upon which male rates should be established. In 1918, the Canadian government endorsed seventeen principles and policies to be used in the establishment of wages and other aspects of the employer/employee relationship. The ninth of these principles stated,

> That all workers, including common labourers, shall be entitled to a wage ample to enable them with thrift to maintain themselves and their families in decency and comfort and to make a reasonable provision for old age.[7]

Implicit in this principle, however, was the notion that "workers" meant, in fact, "male workers." Principle eleven stated only that women doing work ordinarily performed by men should be allowed equal pay for equal work, yet another example of the use of equal pay policies to protect male workers. These principles, combined with the establishment of a women's minimum wage, made the concept of the family wage as the male wage a part of public policy. As Lindsay Neimann notes,

> This was in effect the beginning of official endorsement of unequal pay for women since the minimum rates were based on a cost-of-living budget for a *single* woman or "the least sum upon which a working woman can be expected to support herself." The living wage or male rate, on the other hand, was calculated as being sufficient for the maintenance of a family, ie. breadwinner, wife and 2 or 3 children. This kind of differential led to the pernicious habit of setting women's wages at a level of about two-thirds the amount set for men, a proportion which approximates the ratio of women's earnings to those of men even today.[8]

Consequently, the family wage became an integral part of public policy in the early part of this century. Furthermore, it was also an important part of the arguments used by male trade unions to raise the male wage.

This brief discussion of some of the factors influencing wage setting practices makes two points. First, the establishment of the wage gap was no accident, but rather a conscious aspect of public policy. Second, the factors which contributed to wage levels historically had little to do with the actual content or value of work, but rather with factors such as the perceived need of the worker, the relative scarcity of workers available to do the work, and the level of collective organization of the workers involved.

Equal Pay for Equal Work

As we discussed in the last section, statements concerning equal pay for equal work by both trade unions and governments were motivated primarily by their desire to protect male workers rather than by an interest in the economic rights of women. While governments ratified principles, trade unions too enshrined equal pay for equal work in their documents. In 1915, the Canadian Trades and Labour Congress amended its platform to include equal pay for equal work for men and women.

Despite such "principled" positions, however, little was done to enforce equal pay for equal work in the first part of the century. Indeed, many government policies and union contracts ignored the principle entirely. It was only in the 1950s that equal pay for equal work became enshrined in legislation. In the same period, equal remuneration became established as an international standard, in principle at least, through the passage of the International Labour Organization's (ILO) Convention 100.

The ILO's Convention 100

International statements concerning equal pay were made as early as 1919, in Part XIII, Section II, Article 427 of the Treaty of Versailles. Of nine principles deemed important in regulating conditions of labour, the seventh was "The principle that men and women should receive equal remuneration for work of equal value." However, the international declaration most affecting subsequent legislation in Canada was Convention 100 of the International Labour Organization.

The ILO began developing policy concerning equal remuneration standards in 1948. The Convention was passed on June 6, 1951. It provided "equal remuneration for men and women workers for work of equal value," and established that the principle could be applied in one of four ways—by means of national laws or regulation; by legally established or recognized machinery for wage determination; by collective agreements between employers and workers; or by a combination of these various means. It also promoted "objective appraisal of jobs on the basis of the work to be performed." The complete text of Convention 100 is included as Appendix A.

As usual, the Canadian position on the Convention was more theoretical than practical. In international discussions of Convention 100 prior to its passage, Canada expressed its "in principle" agreement while resisting any commitment to implementation. An excerpt from a 1950 discussion reported,

> . . . the Canadian Government and the provinces, all but one which had replied to an enquiry on the subject, were in favour of the principle and its application to State employees. They would not, however, be prepared to introduce legislation in this sphere.[9]

When the Convention finally came to a vote, the Canadian government abstained, saying that they favoured the substance of the proposition, but were opposed to its adoption as a Convention. We can only assume that this opposition stemmed from the fact that Conventions are considered binding and carry some expectation of action on the part of participating governments. Although the Convention came into force in 1953, following its ratification by the required two countries (Belgium and Mexico), it would be over twenty years before Canada would ratify it.

The Adoption of Equal Pay for Equal Work in Canada

By the time Convention 100 passed in 1951, Ontario had already passed legislation providing for equal pay for equal work. Within a year, Saskatchewan followed suit, as did four additional provinces within the next five years. Federal legislation was also implemented covering workers in federal jurisdiction, although it specifically excluded the federal civil service. It is somewhat ironic, of course, that the federal government was willing to enshrine a principle in legislation that would apply to all employers other than itself.

Although it seems clear that the passage of Convention 100 was an important factor leading to this flurry of legislative activity, none of the bills passed enshrined “equal pay for work of equal value” as a standard to be met. Both federal and provincial legislation used some version of the term “equal work”—“the same work,” “identical work or substantially identical work,” etc. Although some adjustments would be made in terminology in the 1960s and early 1970s, the concept of “equal value” would not appear in legislation until later.

Adjusting the Language

“Equal pay for equal work,” however, does little for women, since we seldom perform the same work as men. Legislation prior to the mid-1970s did not attempt to address the wages paid to men and women doing different kinds of work—that is, it did not deal with the differences in wages stemming from the segregation of women's work.

Governments did repond to pressures from those who recognized the inadequacy of "equal pay for equal work" and did make some changes to the language used in legislation. These changes required jobs that varied only in detail to be paid equally. For example, in

British Columbia, the 1953 Equal Pay Act required that employers pay equal wages for "the same work done in the same establishment." This Act was repealed by the 1969 Human Rights Act, which called for equal pay for "the same or substantially the same work." And in 1973, the Human Rights Code of British Columbia Act prohibited wage differentials for "similar or substantially similar work."

There can be no doubt that such changes came about as a result of pressure from women frustrated by the application of inadequate legislation. However, these adjustments to the legislative language did nothing to address the problems faced by women who were under paid due to job segregation. A legislative framework that assumes that people must be treated equally only if they are "the same," "substantially the same" or, at least, "similar" does nothing for those who are "different." Furthermore, this framework continued to be consistent with the use of the principle of equal pay as a means to protect male jobs, since it discouraged the hiring of women at lower rates to fulfill functions "substantially similar" to those carried out by men. The process of adjusting legislative language became a prime example of the maxim, "The more things change, the more they remain the same."

Equal pay for equal work legislation did provide women performing the same jobs as men with a mechanism to obtain equal wages. It did nothing, however, for the vast majority of women doing "women's work." The rise of the modern women's movement forced the state to respond to the inadequacy of this approach. Before considering these more recent initiatives, however, we will look at the definition of the concepts central to contemporary approaches to equal pay.

Footnotes:

1. Hartmann, "Capitalism, Patriarchy and Job Segregation by Sex" p 126
2. Rathbone, "The Remuneration of Women's Services" p 60
3. Johnson, "The Political Economy of Ontario Women in the Nineteenth Century" p 29
4. Johnson, p 29
5. Bannerman et al, "Cheap at Half the Price: The History of the Fight for Equal Pay in B.C."
6. Barrett and McIntosh, "The Family Wage: Some Problems for Socialists and Feminists" p 59

7. cited in Neimann, "Wage Discrimination and Women's Workers: the move towards Equal Pay for Work of Equal Value in Canada" p 33
8. Neimann, p 34
9. cited in Niemann, p 16

VALUE AND EQUITY

The persistence of job segregation and wage discrimination is a major reason why women are locked into a subordinate position in both the workplace and in the home. It means that most of us are faced with a choice between dependence on a man and absolute or relative poverty for ourselves and our children. It also means that most of our life choices are limited by the knowledge that we will seldom make enough money to establish real independence. Obviously, there are many factors contributing to the economic and social subordination of women. But wage discrimination has been an important focus of feminist attention both because it is central to our economic status and because it presents such a clear demonstration of women's subordination. As one of our informants said,

> Labour conditions are always among the easiest to see because they're right there and everybody experiences them. Other kinds of inequality against women are harder to see . . . Labour issues are things you can talk about first.

As feminists have learned over the years, however, simply demonstrating that women are treated unfairly is not enough to convince the state to take action in our interests. After we document our experience, it is necessary to develop an analysis of the issue and a framework through which we can organize for change. In the process of developing that framework, an understanding of the terms we use and their definition is crucial.

The Importance of Language

The language surrounding women's employment situation and, in particular, around wage discrimination has changed. The term "pay equity," like "employment equity," did not exist in popular terminology until the 1980s. As women continued to press for action on the wage gap, pay equity was increasingly accepted by the state as *the* solution. Although women were careful to assert that pay equity is only *one* part of the change necessary for women's economic independence, it was the concept of pay equity that was picked up by government and the media as "the working women's issue of the eighties."

The relative importance of language in defining and promoting an issue continues to be the subject of some debate – implicitly, if not explicitly. Some, like Rosalie Abella, see the choice of terminology as primarily a pragmatic concern. It affects the ease with which an issue may be accepted by governments and the public, but need not affect the definition of the issue itself. In *Equality in Employment: A Royal Commission Report*, she proposed the use of the term employment equity to describe programmes of positive remedy for discrimination in the workplace. She argues that it is more important to use language that does not elicit emotional reactions than to insist upon terms that prompt a negative response from many people. In discussing the utility of favouring the term employment equity over affirmative action, she notes, "No great principle is sacrificed in exchanging phrases of disputed definition for newer ones that may be more accurate and less destructive of reasoned debate."[1]

Others, however, believe that our choice of language plays an important function with respect to the definition of the issue itself. On the same question of choosing between affirmative action and employment equity, Marjorie Cohen contends that the adoption of the latter term results from the perception that affirmative action is "too strong and politically too dangerous" to use.[2] To this extent, both she and Abella identify the depth of reaction to the term. This reaction manifests itself in suspicions about the spectre of "the quota system" and a great deal of hostility to the potential for "reverse discrimination." However, where Abella sees no harm in changing the terminology to avoid confronting those "negative reactions," Cohen asserts that changing the word does indeed change the issue. She questions whether the substitution of the term "equity" is a backing off from the principles that affirmative action implies. Employment equity programmes, properly implemented, may treat people "fairly," but "fair" treatment of people who are unequal to begin with will not solve the problem. She notes,

> The concept of affirmative action views fairness in a much broader sense. The focus is not only on equality in *treatment*

> but equality in *results*. It recognizes that treating a disadvantaged group the same as a privileged group is not equality: the disadvantages or privileges of the past will have a bearing on the present and will render the results unequal.[3]

Cohen goes on to demonstrate that the change in terminology has in practice allowed government to appear to respond to our demands while in fact doing little. The federal government's response to the Abella Report was Bill C-62, "An act respecting employment equity." The bill requires only that employers report annually to the government on steps they have taken to improve the employment situation of women and minorities. But it ends there. There is no enforcement mechanism, no way to insure that employers actually take positive action. As Cohen concludes,

> Mandatory reporting is not mandatory affirmative action. Clearly the government could not call this bill an affirmative action bill, but they could call it "an act respecting employment equity." The term employment equity is weak and can mean anything. If what we want is affirmative action, we should not call it employment equity.[4]

Abella, of course, did not intend that the term "employment equity" be used to describe a programme that is weak and provides no guarantee that conditions for women will actually change. In fact, she explicitly states that an enforcement mechanism must be an integral part of any employment equity legislation. However, the ease with which the government has been able to co-opt the term for its own purposes demonstrates the danger is proposing new terms that are not firmly grounded in the struggles of the women's movement.

The responses of the women we interviewed reflected both positions. For example, in support of the "pragmatic" position, one person said,

> It has political significance, [but] I think it has very little actual significance. It's one of those things where the perception is the reality. If they're going to wet their pants if they hear [a certain phrase], it's a very wise decision to avoid that phrase and invent a new phrase.

On the other hand, some informants believed that language is very important as a reflection of the substance of the issue. One person indicated that a shift in language often means a shift in concept, and another that "when we see a change in language we see an attempt to placate the public and tell them you're not doing what they thought you were doing." Again, both perspectives recognize that the choice of terminology is often based at least in part on an assessment of what will "sell." Where they differ is in their assessment of whether something substantial is generally lost in the process. At the very least, feminists need to question such changes in terminology and their relationship to the issues involved.

One informant who stressed that language is important also cautioned against falling into the trap of believing that language is an end in itself. As she said,

> I think language is significant . . . the problem is not to get trapped into thinking that the language itself is going to change things . . . . There's something to be gained in trying to find a language that expresses best what we're trying to do. But we shouldn't be under any illusions that once you've found that term, [the problem is solved.]

This danger relates directly to the issue of the "salability" of terms. If the language we use to sell an issue is ill defined, then governments can adopt the jargon and offer it as a "solution" without actually doing much about the problem. As feminists, we are more vulnerable to this happening if we have not ensured that our choice of language is well grounded in the underlying issue we want to address. While it is tempting to adopt the language that the state deems acceptable in the hope of gaining some improvements for women, an uncritical acceptance of the state's terminology can lead to the co-optation of our issues.

A final general concern about language relates to the issue of definition itself. Often phrases are coined in dealing with an issue and become part of common usage without clear definition or a consensus on what those terms mean. We assume we know what we are talking about and the need to explain ourselves seems redundant. What can happen as a result is that issues develop haphazardly, with different positions based on different interpretations of the words involved. We will see in the next section that this has been a particular problem around pay equity. It is very important, therefore, not only to be clear about our definitions, but also to ensure that the language we adopt is firmly embedded in our analysis of the fundamental issue we are trying to address.

Defining concepts

The two most commonly proposed solutions for wage discrimination are "equal pay for work of equal value" and "pay equity." While our informants used the terms as if there was agreement on their meaning, no such consensus emerged from the interviews. What is the "value" of work? What would "equity" really look like? Do these terms express a long term vision, or are they merely tools to be used in the short term? If the latter, are there dangers in the use of these terms for the real issues involved?

Value

We have already discussed the way in which "equal pay for work of equal value" developed out of the inadequacy of legislation providing for equal pay for equal work. It is also an appealing term because our work has historically been either invisible or marginalized in both economic and social terms. So it is, of course, entirely reasonable that women want our work to be valued. It is important, however, to recognize that "value" has come to represent a very particular mechanism for assessing the worth of our work—a mechanism which may not be in our best interests.

By now, "equal pay for work of equal value" is an accepted term, not only by the women's movement, but also by governments, some of whom have integrated the term into their own legislation. "Value," in this framework, has come to mean the skill, effort, responsibility and working conditions contained in the description of the job. But defining "value" as a list of component parts does not address broader questions concerning what "value" is.

According to the Oxford Dictionary, "value" is defined as "1. worth, desirability, utility, qualities on which these depend; 2. worth as estimated, valuation." These definitions raise certain questions. First, value is implicitly a relative term— "worth" to whom? The relativity of value becomes even more clear when we talk about the value of work. Is it "value" to the employer we are concerned with? Is it determined by profit? By contribution to society? Is there a consensus on any of this?

The question of whether there is (or should be) a consensus on the broad meaning of value is precisely the issue that has not been addressed. The inadequacy of prior attempts to establish equality in women's wages (outlined in Chapter 2) has led to efforts to make adjustments in the terminology from "equal pay for equal work," to "equal pay for similar work," to "equal pay for work of equal value," without acknowledging that this broader question needs to be asked. Making adjustments to move women's interests forward may be understandable. But there is no reason to believe that once the state has "adjusted" to our demands, the broader question will either be answered or shown to be irrelevant.

This difficulty in defining "value" has not gone completely unnoticed. Almost a decade ago, Ceta Ramkalawansingh noted,

> ...we must consider what is meant by value. Value can be taken to mean "social worth"; it can also refer to the monetary worth of a product as determined by the marketplace—in other words, it's exchange value with other goods. There are also definitions of value that come from a Marxist framework, as well as those developed by the state or its regulatory agencies and not by a free-market exchange.[5]

Ramkalawansingh goes on to claim that the concept of value implicit in equal value legislation is based on job content as determined by employers. She claims that "advocates of 'equal value' believe that determining wages according to job content is fairer than existing practices."[6] It might also be pointed out that such a choice of definition is arbitrary, and leaves the "value" of jobs easily open to manipulation by employers who still control the factors that determine job content. It assumes that job content (and hence the "value" of jobs) is static.

More recently, and with the experience of equal value legislation in several jurisdictions, Sue Findlay has also raised the issue of the difficulty in determining value. She says,

> The limitations facing equal pay for work of equal value have not, however, been related primarily to the weakness of the CHRA [Canadian Human Rights Act]; they relate more to the

> difficulties of defining "equal value" in order to be able to compare jobs.[7]

Although Findlay does not pursue the issue of defining value, she implicitly recognizes the lack of a clear definition as a contributing factor to both the inadequacy of legislative solutions and to the women's movement's own development of strategies.

The informants in this study had varying responses concerning the usefulness of value as a criteria for compensating women's work. Some stated that they do not believe that the concept of value is at all legitimate and that we should not be trapped into a system that tries to slot women (and people in general) into a hierarchy of value judgements. For example, one woman said,

> The reason why I won't use the phrase "equal pay for work of equal value" any more is that it accepts the premise that different work has different value. Which I don't accept.

Another respondent raised a concern that, whether or not "value" is legitimate, it has not historically determined how people are paid. Under these circumstances, to expect women to fit logically into a system that is not based on objective criteria is a mistake. She said,

> . . . that has never been how we pay people. We don't pay people by breaking their job down into factors and say this is worth so much and that's worth so much. And so then to suddenly say we have to do this in order to prove that women's jobs are worth anything is illogical. You're trying to put that one into a system that isn't structured that way. And so you're going to get, I think it's been proven, just another way of expressing the same biases that are already there.

Several other informants agreed that the system of determining wages in general is not really based on the value of work. Nevertheless, they are prepared to adopt the concept for primarily pragmatic reasons. One woman indicated that she agrees to some extent that people haven't been paid logically, yet she still thinks the issues can legitimately be sold that way. Another said that using the concept of value was primarily a tool to justify giving women more money. She said that the reality of many workplaces is that one has to defend the pay rate by showing that the person is worth so much money. So although she believes that value is a secondary issue, she is willing to use it provided it gets the job done. However, the question remains, will it get the job done?

Still other informants suggested that raising the equal value issue will lead to a broader consideration of the value of work in general. They apparently believe that value is a concept that can and should be used with regard to work and wages. They also indicate that whether or not value has been uniformly applied in the past, the equal value issue will help to do so in the future. One informant indicated that raising such issues puts "some control in the hands of workers to help determine what the value of work is." Another said,

> It's the revaluing of human labour in society. One of the exciting things about this is that it's the first time we're looking at how we look at labour and how we value labour .... It opens up how we value labour generally.

It is clear that those active in the area of wage discrimination have not reached a consensus on the meaning of the value of work. Indeed, there is no consensus on whether value is a concept we should focus on at all. Despite this fact, the term continues to be applied as if that consensus exists.

Equity

The terms "employment equity" and "pay equity" have emerged in recent years as key words in discussing women's employment position. We have already referred to Marjorie Cohen's position that the adoption of the first term has served as a smokescreen to hide government's lack of real action to improve women's labour market position. But what about equity when it comes to pay? What does it mean – in theory and in practice?

Equity, according to the Oxford dictionary, means "fairness; recourse to principles of justice to correct or supplement law; system of justice supplementing or prevailing over common and statute law." For some, it is precisely this notion of "fairness" which gives the term pay equity its appeal. One of our respondents suggested that pay equity was a good term to use because it focuses on the positive, on fairness, and avoids the negative, the emphasis on the elimination of discrimination.

However, as Cohen suggests, treating groups fairly that are unequal to begin with will not solve a problem. And in practice, interpretations of the term "pay equity" vary considerably.

Some respondents believed that pay equity is simply a broader way of looking at remedies to wage discrimination. One woman said "I think pay equity is a more general phrase and to me doesn't have any negative connotation," and another, "... the way I define pay equity, it's any measure that puts more money into women's pockets."

Any such broad interpretation, however, is likely to create problems. A concept that is so generally defined as to mean almost anything is the easiest to manipulate when put into practice. It allows the state to translate the issue into a very specific legislative solution, and say that the solution will address the broader problem that feminists have raised. By using the same terminology, or encouraging feminists to adopt the terminology that they have selected, the state can co-opt the arguments that feminists have used to promote our views of the problem and the solution, whether or not its specific legislative solution will have a substantial impact on the problem.

And, in practice, pay equity has come to mean a very specific type of legislative solution. It appears that "pay equity" was imported into Canada from Minnesota, where the first pay equity plan in North America was implemented (see Chapter 5). One informant there indicated that they had chosen the term because "at that moment in history, it seemed that comparable worth was more of a red flag." One woman suggested that when legislation was first introduced in Manitoba, pay equity was used at least in part because they had based their model on the Minnesota experience. Another informant had been surprised to hear the Manitoba government talk about pay equity, since it wasn't a term that had been used in the women's movement or the labour movement. She believes the government had probably used the term because it was less threatening, but is also concerned that it's a term most people don't really understand. And yet another informant concluded,

> Pay equity is the government's term. And it's kind of nice and fuzzy and warm. Easier to sell to the populace .... They could try to hide behind the name, I suppose, if they wanted to. It's up to us to keep them honest.

However, just how to "keep them honest" is an issue that needs to be addressed. It is precisely this task that is often lost sight of after a particular piece of legislation is passed.

In Ontario as well, "pay equity" was adopted with a specific type of legislation in mind. One informant suggested that the government went from "equal pay for work of equal value" to "pay equity" through looking at the Minnesota experience. She suggested that pay equity has become synonymous with the pro-active approach, with which the government wanted to be identified. They wanted to be seen as requiring employers to take action to improve women's wages rather than relying on complaints from employees.

So regardless of more general interpretations of the term pay equity and no matter how it is sold as the "fair" solution, in practice the term has come to be identified with a very specific legislative model. Intrinsic to this model is the concept of evaluating or comparing jobs to determine wages. In any application of such legislation to date, the same criteria are used for calculating equity as for the determination of value – i.e. skill, effort, responsibility and working conditions. The basic framework remains the same. So while equity may appeal to many women as a just solution for wage discrimination, it should not be accepted (or promoted) without consideration of what the term has come to mean in practice.

Equal Pay for Work of Equal Value vs. Pay Equity

The confusion surrounding the definitions of value and equity is reflected in opinions on the best remedy for wage discrimination. Although one of our informants said that, to her, "equal pay for work of equal value" and "pay equity" mean the same thing, most opinions fall into two main categories. On the one hand, there are those who view pay equity as a broader solution and one which may avoid the need to rely on comparison or evaluation of jobs to justify increases to women's wages. The second position is taken by those who see pay equity as a type of legislation that is a component part of equal pay for work of equal value.

Those accepting the first position include those who resist the idea of comparing or evaluating jobs in order to increase wages. They are usually those who also maintain that value is not a legitimate concept for compensating work, or at least that it has not been the way people have been paid in the past. One informant said she likes pay equity "because it goes beyond the concept of evaluating jobs." And another said,

> Pay equity is maybe not a bad term, because equity does mean fairness. I think it means fairness, rather than equal, comparable.

The second position, that pay equity is only a part of the larger goal of equal pay for work of equal value, has been more clearly articulated, especially by the Equal Pay Coalition in Ontario. The Coalition's brief on Ontario's Bill 154 (The Pay Equity Act) says,

> Equal pay for work of equal value is different from Bill 154's "pay equity." Pay equity is a one shot method which seeks to reduce or diminish the pay gap through provisions which do not meet the full equal value standard.[8]

In defining the equal value standard, the Coalition refers to the International Labour Organization's (ILO) Convention 100 (see Chapter 2). The brief does not, however, articulate in more detail what that standard would mean in practice.

A number of our informants would concur with the Coalition's position that pay equity is only a component part of full equal pay for work of equal value. These informants argue that it is very important to make it clear to women that the two terms do not mean the same thing. One woman taking this position said that her group still uses "equal pay for work of equal value." They define it as "a programme that women have input into in order to equalize the wages between men and women." It is, from her perspective, the dismantling of the wage differential.

Both of these positions are based in interpretations of the concepts involved. Yet those interpretations may not reflect sufficient recognition of how the terms are applied in practice, or consideration of how the definition of terms influences their application.

Adherents to the first position—that pay equity is a more general and more fair way of looking at eliminating wage disparities—often fail to recognize that in practice pay equity has come to mean a specific type of programme. It has come to mean a programme based on comparison of jobs, usually by job evaluation based on skill, effort, responsibility and working conditions. Ironically (given that most of these respondents rejected the concept of "value" as a way of determining wages) they have accepted the terminology that most entrenches comparison as a solution in and of itself.

On the other hand, women who see pay equity as one step on the road to "full equal pay for work of equal value" have not addressed (or at least do not express their views on) what the implementation of equal value would look like. Furthermore, they have not provided an argument that justifies the use of "value" at all, or acknowledged that an effort to impose logic on an illogical system is at least an issue that should be dealt with.

Regardless of one's specific interpretation, both equal pay for work of equal value and pay equity have come to exist in a framework based on comparison of jobs to determine wages. In order to assess the usefulness of adopting this framework, it is important to consider the fundamental issue that all participants in the process of finding remedies are trying to address—that of getting more money for women.

The Issue: More Money for Women

Regardless of the framework any individual or group may adopt, all our informants see themselves as acting in good faith to improve the position of women. The vast majority made it clear that their purpose in participating in the process is to get more money for women. Whatever their views on terms and definitions, they made it clear that the bottom line is money:

> The way we wanted to address the problem, we wanted to increase the average wage of women workers, that's what we wanted. In other words, we used the pay inequities within the group to do that. We weren't so concerned with trying to show that the jobs were equal. We were more concerned with using whatever arguments we could to put more money in the hands of women.
>
> It doesn't matter what you call it as long as you get the money.
>
> We just knew that women earn 59 cents for every man's dollar and they ought to earn a dollar for every man's dollar. That's all we knew. And that's really how it was defined.

> We said, "Let's face it, the only problem is the wage gap. We aren't into—I mean, comparing jobs and all of that is a way of dealing with the wage gap. We don't have to accept that. We can just shove money in."
>
> Just try and get money.

This striking consensus on the fundamental issue stands in contrast to the lack of agreement on the framework to be adopted, and, by extention, the strategies that will be developed from it. However if we do, in fact, agree on the bottom line issue, it should be possible to develop a yardstick to measure both our own movement strategies and the minimum demands we should make on the state.

No one, regardless of their position on the kinds of legislation introduced in Manitoba and Ontario, denies that it will get some additional amount of money for some women. One informant said,

> What I hear people saying in Ontario is that this legislation's not great, but it will put some money in the hands of some women so it should be supported. Any measure that will do that should be supported. But I worry about what it's going to do in terms of the larger agenda.

So we need to ask ourselves some questions. How much more money is enough to win our support? Is the framework we are implicitly accepting if we support such legislation in the long term interests of women? How do we fit the gains that are made into a consideration of how to move the issue forward in the long run? Because regardless of the recognition, expressed by virtually all our informants, that pay equity will only do a *part* of the job, it is being heavily promoted as *the* solution to wage discrimination. So, once the legislation is in place, how do we measure the results to disprove the claim that the problem has been solved and demand necessary further change? And if no such programme currently exists, how do we assess proposed solutions to ensure that we will get the most money for the greatest number of women in the short term, while moving the issue forward in the future? We will return to the issue of this need for "standards of success" in Chapter 7.

Footnotes:

1. Abella, *Equality in Employment: A Royal Commission Report* p 7
2. Cohen, "Employment Equity is not Affirmative Action" p 23
3. Cohen, p 23
4. Cohen, p 25
5. Ramkalawansingh, "Equal Value and Job Evaluation" p 138
6. Ramkalawansingh, p 138
7. Findlay, "The Role of State Bureaucracy in Limiting Equal Employment Opportunities for Women" p 32
8. Equal Pay Coalition (Ontario), *Response to Bill 154: Submission to the Standing Committee on the Administration of Justice concerning Bill 154 - The Pay Equity Act, 1986* p 6

EQUAL PAY SINCE 1970

The Role of Women's Groups

While some changes occurred in the language and detail of equal pay legislation throughout the 1950s and 1960s, a more concentrated push toward improving the situation came in the 1970s, coincident with the development of the contemporary women's movement. The federal government had been pressured by women in the mid-1960s to establish the Royal Commission on the Status of Women, which reported in 1970. It provided a public statement of the economic position of women and the inadequacy of equal pay laws to date. While many of the statements in the Commission's report may now seem rather weak and cautious, it cannot be denied that at the time it provided a significant exposure of at least some of the economic hardships facing women. As one of our informants said,

> As much as we might think the Royal Commission on the Status of Women seems now kind of a funny little document because it doesn't go as far as we all are now, I think at the time it was a real shocker. I think people really didn't know to what extent women were paid less than men.

Among other things, the Commission called for the ratification of the ILO's Convention 100. It did not, however, address the issue of the practical implications of ratification—i.e. the specific steps the federal government should take to implement an equal value standard. Canada did in fact ratify the Convention in 1972, but it would take more than ratification to motivate action.

The main pressure to change equal pay legislation did not come from government appointed bodies and international agreements. Individual women and women's organizations were becoming all too aware of women's low pay and the futility of using existing remedies to get redress. One of our informants had pursued an equal pay for equal work complaint in the early 1970s. As a result she lost her job, but continued her involvement with the issue through a women's organization. She said that, while it was sometimes possible to win such complaints, the experience "sent your whole life into a tailspin," in part because of incredible harassment from employers. Co-workers, too, are not necessarily supportive of anyone seen as "rocking the boat."

There were many women across the country who tried to use these existing remedies. They were closed to most women, precisely because they were not intended to apply to women's segregated work. And even those women who were apparently successful within the limited scope of existing legislation often discovered that they had lost more than they had gained. An informant told us of a woman she had known whose success in lodging an equal pay complaint had been seen as precedent setting by those in the human rights field. As a result of her complaint, however, she had lost access to employment in her field. She had worked in a professional job where the relatively few employers could easily communicate with each other. Once labelled a troublemaker, she was effectively banned from employment.

It was these kinds of experiences with both the content and the process of existing legislation that influenced women's groups to increase the pressure to change equal pay provisions. Across the country, women's groups took on workplace issues in general and equal pay in particular as central issues facing women. At the federal level, the National Action Committee on the Status of Women (NAC) played a major role in lobbying for the inclusion of "equal pay for work of equal value" in federal legislation. They had identified existing equal pay legislation as inadequate, and saw its improvement as one way of getting better labour conditions for women. They took advantage of the legacy of the Royal Commission and the Canadian ratification of the ILO's Convention 100 in their efforts to affect government reaction. The government responded to this pressure when they incorporated "equal pay for work of equal value" into federal human rights legislation in 1977.

One of our informants indicated that in this case government had responded relatively quickly to feminist demands. She saw NAC's efforts in this respect as quite successful, and said,

> This is one case where lobbying and the recognition of women's groups publicly, and the fact that the federal

> government had done this huge study . . . . I think this is one area where lobbying was pretty effective. One of the few cases where direct lobbying had any result.

Even then, however, opinions about the potential of the legislation were mixed. The same informant indicated that the limitations of the legislation were recognized by women even as they were promoting it, although they also hoped that it would be more broadly applied than it has been in practice. She added,

> So I think that there was always a good bit of cynicism about [human rights legislation] even as we were pushing for it. You know we were sophisticated enough to realize how little it can do. On the other hand, I think we did feel that the powers that had been granted to the Human Rights Commission were a whole lot broader than those they had actually used. That is, we felt that the Human Rights Commission had powers that they didn't use.

NAC was not the only women's group taking up the equal pay issue. Other women's groups across the country promoted the issue, in itself or as part of a more general programme of economic issues of concern to women. Equal pay for work of equal value had become a key women's movement demand. But although Quebec implemented equal value as part of the Quebec Charter of Rights and Freedoms in 1975, no other province implemented the concept of value in legislation until the mid 1980s.

The Human Rights Approach

The Canadian Human Rights Act

Equal pay for work of equal value was enshrined in the Canadian Human Rights Act in 1977 and came into force in 1978. It covers workers in federal jurisdiction and, like all human rights legislation, functions through a complaints based model.

Although other sections of the Act have also been used to initiate complaints concerning wages, it is Section 11 which requires that men and women who do work of equal value in the same establishment be paid equally. It also says that value is to be measured as a composite of skill, effort, responsibility and working conditions. It implicitly assumes that the value of work is something that can and should be objectively measured using those criteria.

By the fall of 1987, approximately eighty complaints had been registered with the Canadian Human Rights Commission. About half of these were dismissed. Of the forty-five complaints which had been accepted for investigation, twenty-two had been successful (resulting in wage adjustments for the women involved), five were before tribunals, twelve were under investigation, and six had been withdrawn.

While some individual complaints have been successful in getting more money for some women, few would argue that the legislation has been overwhelmingly successful in addressing wage discrimination. Of the 300,000 women who fall under federal jurisdiction, less than 10,000 or 3.3 per cent have been beneficiaries of the legislation in its ten years of operation. One of our informants speculated that there may be an indirect effect on employers wishing to avoid potential complaints. But this informant also conceded that there is no way to measure this impact and, in any case, there is little incentive for employers to change their wage setting practices without more direct pressure.

Many of the criticisms of the legislation are based on the fact that it is a complaints based system – i.e. the onus is on employees to identify discrimination and file a complaint. As we have noted previously, this model assumes that discrimination in the workplace is the exception rather than the rule, when in reality discrimination is systematic and widespread. Another aspect of the complaints based system is that employers are not penalized for paying unequal wages unless and until they are subjected to a successful complaint. Hence, it is in their interests to ignore the legislation and hope that they don't get caught. As one of our informants said,

> If someone had complied in 1978, and the firm across the street hadn't, the firm that hadn't would be quite a few dollars ahead of the game. When there is no incentive to comply, except the social conscience of the employer, there is a tremendous incentive *not* to comply.

Another informant pointed out that most people are unaware of what other people earn (at least in non-unionized workplaces). This decreases the chance that they will make a complaint, and provides even more incentive for employers to evade the legislation. She noted,

> It pays to wait and take the risk of a complaint, and rely on the fact that its very difficult for most employees to find out what other people make. Even if they find an occupational group that is female dominated and compare it to an equivalent group, finding out what people make is not easy.

The difficulties in bringing a successful complaint has meant that, in practice, only unionized workers have been in a position to use the legislation. Non-unionized workers simply do not have the information, expertise, or protection from reprisals to make a complaint. Furthermore, most beneficiaries of the legislation have been within the federal public service where the Public Service Alliance of Canada has taken some initiative in identifying and pursuing complaints. The impact on the private sector has been "negligible" according to one of our informants.

While most direct criticisms of the Canadian Human Rights Act equal value provision focussed on the complaint mechanism, some additional concerns did arise. One informant indicated that, for the most part, successful complaints had most frequently involved similar work rather than work that was qualitatively different in content. She thought that, in practice, the application of "work of equal value" was often not very different from "similar or substantially similar work." She cited several examples, including the successful complaint brought by federal government librarians who claimed that their work was equal in value to historical researchers employed there. Another informant disagreed, saying that even in the librarian/historical researcher complaint there was a significant diversity of work which could not have been compared if the "similar work" standard had been in place. While there are exceptions, however, it does seem clear that a substantial number of successful complaints have been based on similar work. In any case, both concepts use essentially the same framework in their application – i.e. the assessment of skill, effort, responsibility and working conditions. And it is that framework that is problematic.

Another problem raised by informants concerned the fact that jobs are required to be exactly equal in order to be compared. One informant suggested that it would be more effective to use the concept of "proportional pay for work of proportional value." She indicated that, under current definitions, a woman performing work that is assessed to be worth eighty per cent of that performed by a man and yet is paid only sixty-five per cent of his wage would have no right of redress. She should be permitted to initiate a complaint to achieve eighty per cent of the male wage. This argument, of course, suggests that the method of determining value can be fine tuned to precisely identify such proportional differences. It would further entrench the idea of job comparison as a fully objective method where numerical values assigned to various characteristics provide a true indication of the value of that work.

Those who oppose the idea that such an objective comparison is possible, of course, would also oppose placing the emphasis on further tinkering with the concepts used in equal value legislation. One informant, who opposed using the concept of value as a yardstick for compensating work, said,

> If you really look at it, what's equal to what? What we're really saying is that a clerical worker is as good as a garbage man. Why isn't a garbage man as good as a doctor? In a society that is based on inequality, how can you win equality?

For this informant, the bottom line is,

> . . . anything anyone is paid for, anything society thinks is worth doing, you ought to be able to earn a decent living and be able to live on it.

This informant's insights provide a perspective on wage setting practices that is often lost in debates on equal pay. Is our main purpose to somehow prove that some individuals are worth more, less or the same as others? Or should our main goal be to ensure that everyone, and in particular all women, get enough money for they work they do? We think the latter. And the definition of our primary goal will have a significant impact on the choice of strategy.

Equal Value in Quebec

Equal value legislation has existed in Quebec since 1975 as Article 19 of the provincial Charter of Human Rights and Freedoms. Its basic format is the same as in federal law—i.e. it is a complaints based model—and as such it has essentially the same shortcomings as the federal legislation. Since its introduction, the legislation has generated about fifty complaints, about half of which were successful. Most involved unionized women.

We were told several times that the level of awareness of the legislation is very low. One informant suggested that the law had been very little used because it was passed "without the consciousness of people" – i.e. it came about more as a statement by the government of a high-sounding principle rather than as a result of political struggle around the issue of wage discrimination. In general, our informants told us that the equal pay issue has not been a top priority for women's organizations in Quebec, although there are now some attempts to change this situation.

The government itself has apparently been quite content to have the legislation exist more as a statement of principle rather than a functioning law. But, as feminists often discover, talk is cheap. The government has done little to make the law accessible, or even to inform people of its existence. For example, the Human Rights Commission printed pamphlets on the equal value provisions five or six years ago. When the pamphlets ran out, they were simply not reprinted.

Not surprisingly, complaints have diminished over the years. Recently, however, the Conseil des Syndicats Nationaux (CSN, one of Quebec's main trade union organizations) has begun to lay complaints more systematically. They are anticipating problems in pursuing those complaints, some of which stem from the difficulty in defining "establishment" in the public sector which has a totally centralized structure and includes 300,000 employees. They are expecting government to put up a great deal of resistance and bring forth challenges on legal technicalities to obstruct the complaints.

Despite these problems, the CSN plans to pursue the complaints. In part, according to our informants, they hope to get some redress for women whose complaints are successful. They also hope, however, that the process of carrying through complaints will generate discussion of the equal pay issue and attract positive media attention. They see this process as an adjunct to their efforts to push the issue in collective bargaining.

The difficulties in the pursuit of complaints in Quebec demonstrate clearly the contradictory role governments can, and often do, play with regard to issues like equal pay On the one hand, they can pass legislation that sounds progressive and gives the impression that they are motivated to do something about the issue. At the same time, without adequate public education and provision of resources, the actual use of the legislation is difficult, so that only the most motivated and well supported people will be able to use it. Furthermore, in their role as employers, governments can actively resist any attempt to use the legislation by their own workforce, and cloak that resistance in technical issues. Clearly the gap between how a government wishes to appear and how it behaves in practice is often very wide.

The Role of Unions

Workers have traditionally improved wages primarily through unionization. Historically, the actions of unions in the interests of their predominantly male membership has often served to reinforce job segregation and consequently reinforce low wages for women. As more women have become unionized, however, there has been greater pressure on the trade union movement to promote policies that are based on the interests of their women members as well. Equal pay is the accepted policy of the trade union movement, although there may be disagreements concerning how best to implement the principle. And while some unions have actively pursued the issue, it must also be conceded that the enthusiasm with which unions have integrated the principle into their practical union work has varied considerably.

It would be naive to assume that unions have entirely left the legacy of viewing male workers as the "real" workers entirely behind. For example, one of our informants indicated that there is still a great deal of resistance in unions to equal pay. The membership may endorse the principle at conventions, or even support the issue during a specific strike, but it is very difficult to sustain that support because many men, and some women as well, still do not really believe that women are worth as much as men. She said,

> Well, within the union, you know, it was pretty good at the time of the strike .... But some of the resistance that comes is, for some people, the basic resistance that you get everywhere – that the work that men do is worth more. And a lot of our members believe that, both men and women.

In addition to resistance from the membership, some women also indicated that they did not believe that the male leadership of most unions is really committed to women's issues and, in particular, to equal pay. One informant told us that she believes that the union leadership sees the issue as something that may "mobilize their members, especially their women members, out of their control." Unions, after all, do have an interest in maintaining their own stablility as an institution, and hence in ensuring that demands for change are carefully managed so as not to rock the boat. The logical conclusion to this line of reasoning is that the union leadership will act on the issue in order to placate its female members, but will not follow through on it once pressure subsides. The question from this perspective then becomes how to maintain the pressure from the female membership on a continuing basis.

It is undeniably true that women continue to face obstacles in promoting our interests through the union movement. It is equally true, however, that virtually every gain women have made in terms of the equal pay issue has been accomplished by unionized women, whether through collective bargaining or through utilizing union support to take advantage of the legislative provisions that do exist. Regardless of the strategies developed elsewhere, unions provide the only collective basis to ensure that those strategies are implemented in the workplace.

Strategies for Boosting Low Wages

Unions have used a variety of means to narrow the differential in wages between higher and lower paid workers. Not all of these are labelled as "equal pay" strategies. For example, in Quebec the CSN's policy for the past fifteen years has been to reduce the difference between the maximum and the minimum wage. This policy appears to have grown from the union's recognition that it is the bottom of the pay scale that pulls all wages down, not the top that pulls them up. While this policy was not specifically directed toward women, women clearly benefit. In 1972, during the first public sector negotiation, the demand was for a minimum of $100 per week for all workers. This demand mainly affected clerical workers and hospital workers – i.e. mainly women – and had the effect of improving women's relative place on the wage scale.

Negotiating wage increases as flat rate, dollar amounts instead of percentages is another strategy used to boost the earnings of lower paid workers. This demand, however, has sometimes led to dissension within union locals – dissension based on where workers are currently placed on the wage scale. Unions are, after all, organizations founded on the self interest of their membership. Strictly speaking, self interest on the issue of flat rate versus percentage increases depends on which strategy is designed to put more money into one's own pocket.

One of our informants described the difficulties arising in her own union around this issue. While the union had put considerable emphasis on educating the membership on the issue of narrowing wage differentials between male and female workers, when the time came to vote on the contract, plain self-interest prevailed. She indicated that their educational campaign had indeed been successful in demonstrating how percentage increases had worked against lower paid workers. When the vote came, the sixty-five per cent of the bargaining unit who voted in favour of the flat rate increase reflected the sixty-five per cent of the unit who would do better with the flat rate. She described the division this way,

> One of the interesting things that happened was that the lower paid employees realized that they were in the majority and that they could control the union. And they realized for the first time that the percentage increases had in fact worked against them in the past. And so they made it clear at the meeting – the higher paid employees made it clear that they never again wanted to see a flat rate increase and the lower paid employees made it clear that they never again wanted to see a percentage increase. So the executive came out of that round of negotiations with a split membership.

Such divisions raise the question of whether it is possible to pursue better pay for women without expecting some concessions from those workers who are currently better paid. Several informants suggested that it is rather naive to assume that employers will accept any strategy that boosts women's pay without continuing to place a lid on the overall wage package. As one informant said,

> The only way we're going to get equality is to get a larger pie, but no one talks about how we're going to get the larger pie.

Nevertheless, many proponents of equal pay strategies continue to sell the issue by insisting that women's wages can be raised without challenging the self interest of men. Yet it seems clear that, in practice, self interest does not simply disappear. This demonstrates that the struggle for women's economic rights is not simply a struggle between employee and employer, as has historically been the case for men. It is a more complex process encompassing women, employers, and the perceived self interest of men. It reinforces the absolute importance of women organizing as women both within the mainstream trade union movement and outside of it.

The Equal Base Rates Strategy

The demand for equal base rates has been a significant development in union strategies for equal pay. It emerged as a major issue in the strike of municipal workers in British Columbia in 1981.

The Canadian Union of Public Employees (CUPE), a major player in the strike, had adopted a policy calling for the equalization of base rates in 1979. The base rate was defined as the wage for full-time, entry level employment and, in practice, is defined for municipal employees as the "labour rate"—the lowest living wage for the male full-time workforce.

Although the demand for equal base rates had been part of the negotiations leading to the strike, it was not until the strike was actually underway that it became a major issue. The unions involved sought an issue that would attract public attention, and decided that the equal base rate demand was most likely to fulfill that function. As one of our informants commented,

> It was not, to be quite honest, taken terribly seriously at the bargaining table before we were out on strike, and we were looking for issues to really put before the public, to get public support, that were a little more understandable or of interest to the public than, say, the benefits package or something else. The equal base rates, or equal pay, or equal worth, or whatever we were going to call it at that time, was an issue that appealed to people on the basis of fairness. It also appealed to our members on the same basis. It was a clear cut issue for us of what was a fair wage for a fair day's work, and was

> something we felt that we could sell to the public and get support for.

Another informant also identified this adoption of the equal base rates issue as a rather spur-of-the-moment strategy, and in somewhat stronger terms. She said,

> We saw the strike as a first step toward working towards equal pay and many of [the union leadership] saw it as a good rallying cry at that moment in time and next time it might be something else.

Regardless of the motivation for focussing on the equal base rates issue, it did force the union to further develop its position on what the proposal would mean in practice. They determined that a clerk-steno was the female equivalent of a labourer—i.e. it was the most prevalent entry level position for women employed full-time by the municipalities. They based the development of their position on this.

When analyzing existing wage rates on this basis, the unions found that, not only were clerk-stenos far below the male labour rate, but in fact all clerical jobs right up to secretarial positions demanding accounting experience and supervisory duties were below the labour rate. They put before the employer a restructured pay plan where the clerk-steno would be equivalent to the labour rate and the differences in clerical jobs above the clerk-steno rate would remain the same but be bumped up.

The result of this restructured pay plan would have been very similar to other jurisdictions, where a more complex and arduous process of job comparison had been carried out. An informant explained,

> The interesting thing was, had that been achieved, the senior secretarial jobs would have come out equivalent to the trades rates and the clerk-steno equivalent to the labourer. What we found in the process of gathering information on what had been done in other public sector unions in other places—and mainly we ended up going to the United States because nothing had been done in Canada at that time—in public sector jurisdictions in the state of Washington, the education jurisdiction had just completed an eight year job evaluation study or comparable worth study between the men and women and had

> come up with exactly the same results, namely that the clerk-steno should be paid the same as the labourer and the senior secretarial, like the legal secretary or whatever, should be around the carpenter or trades rate.

The municipal unions had been careful, however, not to base their position on comparing jobs. They argued instead that there was a basic living wage below which no one should be expected to work, and that wage should be the same for men and women. They adopted slogans like "Fair Pay for Clerical Workers" and "Equal Pay is Fair Pay" to emphasize their argument. They refused to enter into arguments with employers concerning the comparability of jobs, saying that they were not talking about "comparing apples and oranges," they were talking about fair pay. An informant said,

> So that's the term we used. We made the analogy between our proposal and the minimum wage proposal which had been discussed in 1973 where the old Minimum Wage Act used to have a different minimum wage for men and women. And it didn't matter what the job was, what mattered was the sex of the person doing it. And we argued at the time that the sex of the person doing it should make no difference, the job should make no difference, there was a basic minimum wage beyond which people should not have to work. So that was our argument, that the base rate was the absolute minimum in our bargaining unit, regardless of who did it or what the job was.

The demand for equal base rates was not won through the strike, although it has been implemented in a few small bargaining units with only a few clerical categories where employer resistance to the concept was less strong. And, because of the implementation of public sector wage controls in British Columbia in the years following 1981, it is impossible to say whether the demand for equal base rates would have been pursued with much vigour in subsequent negotiations. Nevertheless, the equal base rates issue has become well known throughout the trade union movement, and the struggle to achieve it has played a significant role in raising awareness around the issue of equal pay.

Negotiation versus legislation

A range of opinion exists concerning the relative value of negotiating for equal pay and pressing for legislation. Some women believe that legislation should not be our priority, and that it is much more important to organize women to bring about change. One of our informants said,

> I don't think we should target legislation at all. I think if there's enough people out in the streets doing their thing, then the legislation magically changes. I think legislation, social legislation, is always in response to social ferment. So I don't think anyone has to target legislation. I think that goes by itself.

Other women pointed out that men have achieved their higher wages through collective organization and struggle and that it is unrealistic to assume that women will be able to make substantial gains unless we are equally well organized and equally militant. Concern was also expressed that legislation takes the issue out of women's control and enforces a definition of equal pay that is based on the government's agenda and not women's interests. As one informant from a province with pay equity legislation said,

> What the legislation has done is redefine the issue of equal pay. It's taken the issue of equal pay and put this legislative definition on to it and a legislated solution. And where things are at is that we have to reaffirm where we want to go as women on this issue, figure out to what extent the legislation will help us get there, and recognize where it can't help and where it might, in fact, hinder and put up obstacles to where we want to go, and then figure out how to overcome those obstacles.

This legislative definition poses another potential problem for unionized women in that unions may adopt it as a *ceiling* in their efforts to negotiate better wages for women. One woman told us that she had tried to promote a strategy within her own union that had been shown to make significant improvements in women's wages. She received the response, "But that was before we had pay equity," a response that implicitly accepts the position that a single legislative solution will solve the problem.

On the other hand, some informants felt that legislation could be used to prod unions into action. They pointed to the fact that unions haven't been uniformly enthusiastic about advancing women's issues in general and equal pay in particular. One informant admitted,

> The legislation, to be perfectly frank, was a bit of a salvation to unions too, who haven't, for whatever reasons, been able to educate their members to the point of making [equal pay] a bargaining priority. We haven't done as much in this area as we should have done at this point. So it's not just the employers.

Furthermore, union structures often act as a deterrent to organizing women – and most women are still unorganized. One informant pointed out that unions are very reluctant to organize groups of less than twenty-five, implicitly arguing that it is an inefficient use of union resources. But many women – especially the lowest paid women – work in these smaller workplaces. Furthermore, unions are generally hierarchical and have an interest in maintaining their own stability and, hence, their existing power structures. The need persists, therefore, to develop alternative bargaining structures that more accurately conform to the needs of women workers.

Finally, some women pointed out that accepting that some legislative change would be beneficial for both unionized and non-unionized women does not mean that one automatically accepts the legislative models that have been proposed to date. Other alternatives focus primarily on getting money to women as quickly and efficiently as possible, and maintaining a priority on women most in need. But before considering such alternatives, we will look at the development of recent legislation, and the adoption of the concept of *pay equity*.

THE PAY EQUITY PROGRAMMES

In the mid-1980s, a new concept and a new term appeared on the equal pay landscape – "pay equity." The term pay equity has come to refer to legislated programmes which require employer action to institute a method for comparing jobs in their workforces in order to rectify wage discrepancies between female and male dominated classes. In this chapter, we look at the implementation of programmes in three jurisdictions – the state of Minnesota, and Manitoba and Ontario, the two provinces which have passed pay equity legislation to date. We consider not only the content of such legislation, but also the process through which it has been passed. We examine how the state responds to a key issue for women – wage discrimination – with a specific legislative programme – pay equity.

Minnesota

We decided to include the state of Minnesota in our study for two reasons. First, it was the first legislated pay equity programme in North America. Second, informants in both Manitoba and Ontario told us that they had relied on the Minnesota experience in developing their legislation.

Pay equity emerged as an issue in Minnesota through the Commission on the Economic Status of Women, a government body whose board is composed of state legislators. The Commission was established in 1976, with a mandate to study all aspects of the economic position of women in the state. Its initial focus was on state employees, partly because of the belief that the government should be a model employer, and also because there was an existing body of data available, which was not the case for private employers.

Over the next five years, the Commission proposed various methods for improving the position of women. For example, an affirmative action programme was introduced in the state civil service which led to an increase in women in management from four per cent in 1974 to about twelve per cent in 1981. Despite such programmes, however, the majority of women continued to work in segregated areas.

In October 1981, the Commission established a task force on pay equity. The task force report, *Pay Equity and Public Employment*—was released in March of the following year. Our informants told us that the primary motivation for the development of the pay equity programme came from state legislators involved in the Commission. One informant said that pay equity had not been an issue that had been pushed by either women's groups or unions, although the main union involved, the American Federation of State, County and Municipal Employees (AFSCME), and groups such as the League of Women Voters later supported the legislation. At the initial stage, however, "it started from a perception on the part of legislators that there was a problem."

The work of the Commission led to the passage of pay equity legislation covering state employees in the spring of 1982. It based the pay equity programme on the existing job evaluation system used for state employees, the Hay system. The Hay system, as we will discuss more fully in Chapter 6, is one of many conventional job evaluation systems originally designed by management consulting firms to assist employers in rationalizing existing pay scales. Accordingly, the system had originally been implemented in Minnesota for purposes other than the implementation of pay equity. Our informants recognized that Hay is not necessarily the best system. However, they indicated that despite this fact, it did reveal a gap between what men's and women's jobs were paid under the system—i.e. wages paid by the state were not consistent with their own evaluation system. One informant indicated that the first question they asked was whether the Hay system is so biased that it would have to be thrown out entirely, or if paying women according to that system would improve their position. She said,

> I, for one, was surprised that [women's position would improve if evaluated according to the Hay system]. I think it's significant that Manitoba did select Hay for their system. I looked at Hay and said it is a bunch of white, male, middle- class, middle-aged, middle everything double counted. And their values clearly are to reflect the status quo and to make it come out saying that the current system is fine. And yet, even their

> system showed a very large and very consistent gap in the way we were paying throughout state government.

Between 1983 and 1986, adjustments were made according to the findings of the Hay job evaluation. The total cost of implementation was 3.7% of the total state payroll – 1.25% per year in the first 2 years and the remainder in the following 2 years. In the last year, the Hay system was modified by the state in response to charges that the system did not fairly evaluate working conditions typical for women's jobs.

Approximately 8,500 employees in 200 female-dominated classes were affected, of a total state workforce of 34,000 full-time employees in 1800 job classifications. A "male" class was defined as one in which over eighty per cent of the incumbents are men, and a "female" class as one in which over seventy per cent of the incumbents are female. The major groups affected were clerical workers and health care workers, and about ten per cent of those receiving increases were men. The estimated average increase for pay equity was $2,200 per year.[1] One of our informants concluded, "Minnesota's experience shows that pay equity can be implemented smoothly and at low cost."

Unions representing state employees played a crucial role in that implementation. Eleven unions represent state employees, the largest being AFSCME. The pay equity legislation allocated funds to each of sixteen bargaining units based along occupational lines. The relevant union was then involved in negotiating the actual distribution of salary increases through the usual collective bargaining process.

One of our informants emphasized both the strength of the union and its commitment to the issue as crucial to the success of the programme. This informant said,

> The results depend on the power of the union in a particular jurisdiction. If the union's got the power and the workers are willing to take the issue as hard as any other issue, you can come up with good results. Where the union's weaker, or doesn't have the resolve to settle a problem like it would settle any other collective bargaining problem, then you're going to end up with a poorer solution or no solution at all. So there's really no difference in this than any other collective bargaining problem.

In addition to their role in actually negotiating the increases to be implemented, the unions also had the responsibility of gaining the support of their membership for the programme. One informant indicated that there was some initial hostility to pay equity, primarily from male-dominated bargaining units. The men, not surprisingly, believed that pay equity would take money out of their pockets. The union set out to do educational work around the issue, putting it in the framework of more traditional trade union issues.

One informant told us that, from the point of view of the union, pay equity was a new solution to a traditional problem – How do you raise pay scales up from the bottom? As this informant pointed out, it is not the top of the pay grids that pull everybody up, it's the bottom that pulls everybody down. By this reasoning, if you can pull the groups at the bottom up, you can "get everything up for everybody." Using this framework, the union was successful in diffusing opposition to the plan. The process was described this way,

> The best success we had with those groups was to explain it the traditional way we had negotiated, which is to say, forget about sex for a second, just ignore it. If you had a group on the bottom and not getting paid for what it's worth, and we put proposals in for negotiations, wouldn't we be looking to get some special base increase for those people at the bottom? The answer would be, from this male dominated group, "Absolutely, without question. That's what we would want to do." And in effect that's what we have done. Okay, we forgot about sex, let's bring sex back into it. If all those people happen to be women, or they happen to be people of a particular religious persuasion, or they happen to be people of a particular ethnic or racial background, then shouldn't we also be doing that for them? [The answer is], "Well, yes, I hadn't really thought about it before." So I think if it's posed as a traditional trade union matter, as opposed to an issue, more altruisticly, that it's bad to discriminate against people . . . if you pose it in the traditional trade union manner with the male dominated groups, I think you're going to have more success.

In general, our informants reported that the implementation of pay equity at the state level had been relatively successful. They attributed that success to the political will on the part of legislators to achieve the legislation. Also, one informant indicated that the fact that pay equity was a new concept allowed them to "sneak one in under the radar on this one" – i.e. they were able to implement the programme before opposition could be mounted effectively.

The extension of pay equity legislation to cover local governments did not, however, have this advantage of being "under the radar." Legislation requiring local governments (including cities, counties and school boards) to carry out a pay equity programme was passed in Minnesota in the spring of 1984.

Our informants reported greater resistance to the implementation of pay equity from these local jurisdictions. Prior to the legislation, employers' lawyers had been encouraging them not to conduct studies, because if a study did find discrimination, the employer could be vulnerable to a lawsuit. The legislation precluded lawsuits based on pay equity studies for three years, a compromise one informant said was necessary to get the legislation passed.

But this compromise did not mean that the implementation then proceeded smoothly. One informant said that, at the local level, "everybody and his or her sister or brother wants to get in on the act for or against the concept." Nevertheless, the legislation did require local employers to carry out a study and then negotiate the results with the unions involved. The unions did not, however, have control over which study would be used and who would carry it out. Employer organizations such as the League of Cities, the Association of Counties, and the Minnesota School Boards Association recommended certain organizations and individuals to provide studies to their members.

Although the unions had not had control over the study at the state level either, one informant indicated that this has caused more problems at the local level because the political will that had existed on the state level has frequently not been there locally. This informant said, "I think the difference is where there's a political will to identify a problem and deal with it." And, as both the initiator of the programme and the employer, the state had a stake in its implementation that was not there at the local level.

Despite such difficulties with local implementation, our informants did not change their opinion that pay equity legislation in Minnesota has generally been a positive experience. This is not to say, however, that criticism is non-existent. One critic of the scheme has written that the programme is "like trying to relieve a migraine with an aspirin." She indicates that the adoption of a pay equity scheme like Minnesota's may well serve to "freeze" inequity, and describes the job evaluation system used by that state as a "bosses' scoring system." She concludes,

> The Hay-Aitken job evaluation system merely rationalizes existing inequities. It cannot remove them. All it can accomplish is to eliminate discrepancies and inconsistencies that appear *within* an existing unequal pay system. No wonder Minnesota can boast that the programme will cost it only twenty to forty million dollars, or three per cent to four per cent of the total salary base of the state service.[2]

Comments such as these raise a number of questions concerning the advisability of whole-heartedly embracing pay equity as a strategy. As we will see in Chapter 6, the inability of job evaluation schemes to fundamentally alter the way people are paid is not limited to the Hay system. Yet by promoting such schemes as a way to produce "equity," we may implicitly promote the idea that a solution to wage discrimination has been found and therefore accept a ceiling on women's advancement that will make further gains difficult to achieve. Once the problem has been "solved," after all, there should be no need for further scrutiny. And while none of our informants claimed that pay equity had fully eliminated wage discrimination, the acceptance of the framework may allow government (or other employers) to deny the need for further action on wage discrimination.

At the same time, it is difficult to argue against any programme that gives some more money to a group of women. What is missing in the debate is a consideration of several issues that are invisible in most discussions of adopting pay equity as a strategy. How much money for how many women is enough to warrant our support? Furthermore, is pay equity a strategy that will move women forward in the long term, or "freeze" us in a situation where only marginal gains have been achieved? How do we measure success?

Manitoba

In 1985, Manitoba became the first jurisdiction in Canada to pass pay equity legislation.

The government had first begun to consider the issue of equal pay for work of equal value legislation as early as 1977, when the provincial Women's Bureau (later to become the Women's Directorate) conducted hearings on the issue throughout the province. The subsequent change in government meant that the issue was temporarily laid to rest, at least in terms of government initiative. However, during the 1981 provincial election, the NDP made a commitment to introducing equal pay for work of equal value legislation, although no detail was given concerning just what that legislation would look like. Four years later, Bill 53, The Pay Equity Act, was passed.

The Act provided for the implementation of pay equity programmes based on job evaluation, first in the provincial civil service and a year later in external agencies such as universities and health care facilities and crown corporations such as Manitoba Hydro and Manitoba Telephone System. Municipalities and school boards were not included in the legislation, nor was the private sector. While the government indicated that the entire broader public sector and private sector will eventually come under pay equity legislation, no firm date was given.

The legislation provided for a two year period in which management was required to negotiate a job evaluation plan with relevant unions, carry out the evaluation, and begin the phasing in of wage adjustments. This phasing-in may then extend over a four year period, and the employer was not obligated to allocate more than one per cent of the previous year's payroll cost to implementing the plan.

Although the NDP had promised the legislation during the 1981 election, enthusiasm for it was far from uniform among the cabinet and caucus. Several of our informants credited Mary Beth Dolan's commitment to the issue as a key factor in it's eventual passage. Dolan was Minister of Labour in the period following the election.

Those working within the government in the Department of Labour and the Women's Directorate took on the task of investigating models for legislation as well as educating the cabinet and the caucus on the issue. One of our informants indicated that it was difficult to develop a proposal during times of restraint. Governments often decide that restraint is necessary in tough economic times, although this attitude is all too often a rationale for making people pay for preserving the economic status quo. But government had accepted the need for restraint, and our informant continued that, under these circumstances, it was essential to have a very "reasonable" model of implementation.

Those developing the legislation relied heavily on the Minnesota experience in preparing legislation they thought could be "sold." They adopted the term pay equity which had been successfully applied in that state, despite the fact that women's organizations, unions, and indeed the government itself had used "equal pay for work of equal value" to describe the issue until that time. Furthermore, many of the parameters of the legislation also closely replicated the Minnesota model – for example, the stipulation that the funds allocated for wage adjustments be set at a maximum of one per cent of payroll per year for a maximum of four years.

All of this, of course, raises the question of what is a reasonable model (and reasonable to whom?), given the extent of wage discrimination against women. If legislation is introduced that claims to eliminate wage discrimination, at least within a given workplace, it is essential to develop a standard against which the actual gains made can be measured. The need to develop such standards will arise repeatedly in our discussion of various programmes.

The controversy surrounding the introduction of the law put additional pressure on its supporters within government to be reasonable. Groups such as the Winnipeg Chamber of Commerce came out strongly against any interference in the marketplace. After the legislation was introduced, the legislature's Standing Committee on Industrial Relations held hearings on it, at which a range of views were heard. For the most part, women's groups and unions (and the Equal Pay Coalition which represented both) were supportive of the concept of the legislation, although they did express some criticism concerning the details of its application and its restriction to the provincial public service and certain public agencies. The Chamber of Commerce, not surprisingly, rejected outright any move toward legislation dealing with wage discrimination. They stated that they simply did not accept that business has systematically discriminated against women, and advocated job training and education as the solution to any problems women might have. Although the language used in their presentation to the committee was relatively mild, several of our informants noted that their public statements were considerably more inflammatory.

Given the sensitivity of social democratic governments to any accusation of being too "radical," such public pressure necessarily influences the development and implementation of legislation. While social democracy is clearly more open to incorporating some feminist demands than are free enterprise political parties, it is still sensitive to both the power of the dominant economic interests and the accusation that it serves only narrow interest groups. One woman said that the issue had to be pursued very carefully because the government was afraid of being seen as giving in to unions and women's groups. She said,

> We've had to temper somewhat our strategy because we didn't want [the government] to be seen as having given in. Because politically they weren't willing to look that way. And so we had to do some quiet lobbying in order to get the push through rather than [take a] vociferous [approach] because they were getting enough heat on the issue. They would have let it die before they would let the opposition say they were giving into us again.

The pay equity bill was passed, albeit without the changes advocated by women's groups and, in particular, without extension to the private sector. One informant attributed the government's continued unwillingness to extend the legislation to the private sector to a lack of political will. She said,

> The Liberal government in Ontario has the political will to introduce pay equity including the private sector. And we have a government here that is supposedly progressive that is afraid to do it. So I think we should be embarrassed.

Pay equity has proceeded in the public sector according to the legislation, although the process has not always been a smooth one. After the passage of the bill, the government established the Pay Equity Bureau to provide resources on the issue and monitor the progress of implementation. They appointed Carole Geller, a well-known feminist with a solid reputation in the human rights field, to head up the Bureau. They also appointed Roberta Ellis to the Public

Service Commission with responsibility for implementation of pay equity among provincial government employees. Ellis had been active in the women's movement, and had chaired the Manitoba Action Committee on the Status of Women. She had then been appointed by the government as President of the Manitoba Advisory Council on the Status of Women. One informant told us that the Advisory Council had been very helpful in efforts by women's groups to get pay equity legislation passed. In Ellis, the government had appointed someone who was both well-known and trusted by women's groups.

After Geller was forced to resign her position due to illness, however, the relative roles of the Commission and the Bureau became blurred. Ellis was appointed Acting Director of the Bureau, which several of our informants indicated was a clear conflict of interest. On the one hand, she was responsible for the implementation of pay equity in the public service. On the other, in her role at the Bureau, she was to monitor the progress being made, theoretically from an external position. No one in such a position would be expected to be critical of a programme that she herself had been responsible for implementing.

Several of our informants noted a shift in direction at the Bureau after the change from Geller to Ellis. They said that Geller had been a stronger advocate on the issue, and attributed Ellis' apparent reluctance to carry on that advocacy to the conflict between her two roles. Although they generally did not elaborate on how this difference was expressed, they were clear about the fact that there had been a change. As one informant said,

> But I think it had to do with the change in the players, too. Maybe it was more that than the way the Bill was struck. [Carole Geller] saw herself as an advocate, that was her style. Roberta sees herself in a different way. And Roberta is the Civil Service Commissioner, so she's like the management team for the civil service. But she's also in the Bureau as the Acting Director, so it really is a conflict of interest.

This lack of arms length monitoring within the government was reinforced by the lack of attention paid to the implementation of pay equity by the women's movement. Several people told us that women's groups had not been active on the issue during this period. For the most part, women's groups seem to have been willing to allow the implementation to proceed without close scrutiny. Certainly their trust in Ellis as a former women's movement activist would account in part for this. Furthermore, most women's organizations are so strapped for resources that there is always pressure to move on to other, more pressing issues without monitoring the implementation phase. But it also raises questions concerning the actions of women's organizations after a "victory" such as the pay equity bill. Is the mere achieving of a piece of legislation really a victory in itself? Can the outcome of the legislation be significantly affected by just how the implementation takes place? And can we trust the government to give us the straight goods on how the implementation is proceeding, regardless of who they appoint to carry it out? Finally, how do we judge the final result when we know little about how the implementation occurred?

The first wage adjustments in the public service were announced on October 1, 1987. This was the culmination of the two year process in which the job evaluation scheme had been negotiated between the government and the Manitoba Government Employees Association and carried out. The Hay job evaluation system was used, just as it had been in Minnesota. We have already suggested Hay is "a bosses' scoring system," and therefore we would question the union's agreement to use it. One of our informants, however, suggested that Hay had been chosen precisely because of its "proven track record." This informant said that when one hires an expert to undertake job evaluation, one is "hiring their stamp of approval as much as what they do" and was consequently not surprised by the use of Hay.

This first stage of the pay equity programme covered the Manitoba public service, totalling 17,800 employees, of whom 7,500 are women. Wage adjustments were received by 4,900 employees, including some men employed in female dominated job classes. Increases ranged from $.65 to $3.27 per hour, to be phased in over four years. First year increases ranged from $.16 to $.82 per hour. These increases were heralded by Eugene Kostyra, Minister Responsible for the Civil Service Act, as representing "an end to gender-based pay discrimination in the Civil Service."[3]

As in Minnesota, although the implementation process occurred relatively smoothly in the public service, it has been shown to be more difficult when moved to other workplaces. State and provincial employees are large entities. Management is centralized.

Furthermore, "management" is in fact the government who introduced the legislation, so there is motivation to make it work. All of these factors contribute to the relative ease with which pay equity is implemented at this level.

When implementation moves beyond the public service, however, additional pressures on the process arise. If employers are not committed to the concept, and most are not, they can and do erect barriers to effective negotiation. One of our informants told us that the unions involved in negotiations in health care institutions, for example, have had a great deal of difficulty in obtaining the information necessary to determine what jobs are equivalent between institutions. Employers refuse to provide the information necessary for such a determination, and the Pay Equity Bureau has said the employer is not obliged to provide it.

Another informant expanded on some of the problems encountered in the health care system where, unlike the public service, there are multiple employers involved in the negotiations. She said that the legislation had been designed for the civil service, and that flaws became apparent in trying to implement the law in other jurisdictions. Health care negotiations began in October 1986 between twenty-three institutions and nine unions who have come together voluntarily for the purposes of pay equity implementation. This has meant that there had to be consensus on each issue under discussion, or any of the players could withdraw from the voluntary association and force an institution by institution negotiation. This gave employers additional power in the negotiations, since it was in the best interests of the unions and the workers they represented to negotiate for the health care system as a whole. Our informant described the way this allowed management to insist on the exclusion of many higher paid management classes from the pay equity scheme. She said,

> There's a real flaw in the legislation as it applies to health care workers which is that in order to be a class you have to have at least ten incumbents [i.e. there must be at least ten workers in that job class]. In a lot of our health care facilities you don't have ten incumbents. Especially in the male-dominated classes, you don't have ten incumbents. So if the legislation was applied facility by facility, we would have probably had

> maybe three male classes. And there were a lot of female-dominated classes that would fall through too . . .

To solve this problem, the unions convinced the employers to pool the numbers in each class across the health care facilities involved. However, the employers would only pool the numbers for classes in bargaining unit jobs. They refused to do so for management classes and so, of course, many highly paid positions were not available for comparison. Our informant described how the unions involved had essentially been blackmailed into accepting this compromise. She continued,

> So their argument is that there aren't any management classes under the Act because there's no jobs with ten incumbents. [They're] not prepared to say that the jobs of the supervisors at the various facilities are the same. So what we will get is a male pay line that excludes any of the higher paid management classes. But they said if we forced them on the issue of management classes, they would go back to bargaining facility by facility, and we would have lost tons and tons of people to be covered by the Act.

This process demonstrates an important and perhaps unanticipated constraint on unions in negotiating pay equity, even with the force of legislation behind them. Several informants in Manitoba emphasized the central role unions had been given through the legislation. Indeed, unlike Minnesota, Manitoba's unions *do* have the right to negotiate the job evaluation system to be used, which has the effect of increasing the union's influence. However, it should not be forgotten that management still has more power than the union in many respects—in the above example, the power to essentially blackmail the union into accepting certain conditions by threatening to withdraw other concessions essential to the union's position.

In addition to problems faced by unions in their attempt to negotiate with management, the health care example brings up another problem with pay equity legislation. In an industry such as health care that as a whole is dominated by women, all wages are depressed, precisely because it is a *female-dominated* industry. Therefore, an informant speculated that the wage adjustments would be less than they had initially hoped. Adjusting wages under these conditions does not address the broader issue of wage discrimination across industries. This is a variation of the problem identified by those who point out that pay equity does nothing for women in jobs where there is no male comparison group, such as day care workers. It is more dangerous in the health care example, however, because the *appearance* of addressing the problem is maintained.

Problems with pay equity, such as those encountered in Manitoba, often only become apparent when the programme is actually implemented. Not uncommonly, legislation which looks good on paper often loses some of its appeal when it is put into practice. Although the final impact of the legislation is yet to be seen (the first wage adjustments for the second phase take place October 1, 1988), it's clear that there is a need for consistent monitoring of the implementation process.

Ontario

In 1987, Ontario became the second Canadian province to pass pay equity legislation. The commitment to introduce such legislation had been one of three items included in the accord between the Liberals and the New Democratic Party following the election of a minority government in 1985. In return for promising to introduce certain legislation, including a bill to address wage discrimination, the Liberals were assured of the NDP's support for a two year period.

The Equal Pay Coalition in Ontario was identified by our informants as a key player in the passage of pay equity legislation. Unlike Manitoba, where the Equal Pay Coalition had come into being only after legislation had been promised by the government, Ontario's Equal Pay Coalition had been in existence for ten years prior to the passage of the legislation. Informants from government, unions and women's groups credited the Coalition with promoting the issue of equal pay for work of equal value, and thus inducing the minority Liberal government, supported by the NDP, to take action.

The Equal Pay Coalition is composed of a wide range of groups from trade unions to business and professional women's organizations, from large groups to small. This breadth of representation was seen by some informants as an essential reason for the Coalition's success. As one woman said,

> The Coalition is, in my experience, an extraordinary group of people in that it has united women with sort of a liberal democratic view of the world with women from organizations like ours, a union, where the emphasis is more on collective rights than individual rights. And this equal pay for work of equal value issue is one where we have managed to use the power of both those groups of women to do something anyway.

This informant also gave credit to the work of Mary Cornish, a labour lawyer and main spokesperson for the Coalition, in building unity among participating groups. She said that Cornish is trusted by both groups of women because on the one hand she represents labour, and on the other, she is a professional herself and therefore acceptable to more conservative women's organizations such as the Business and Professional Women. This fact meant that the Coalition avoided the "usual problems you have in coalitions about who's going to be the spokesperson." It appears that, in this instance, the spokesperson was granted considerable latitude and responsibility to respond to government initiatives.

Another informant referred to the Coalition as an "amazing group" which has had a great deal of impact on the issue. It was because of their work that the government believed that only a proactive (as opposed to complaints based) model would be politically viable. She also indicated that the Coalition had "a lot of clout" because the government saw it as speaking with one voice on behalf of widely divergent groups.

Nevertheless, some informants did have some criticisms to make of the Coalition. One woman indicated that, while the Coalition had put more emphasis on collective bargaining strategies and the role played by the minimum wage in its early years, more recently it had devoted itself almost exclusively to achieving legislation. In practice, this shift meant that the Coalition focussed entirely on a framework incorporating comparison of job content to address wage discrimination, to the exclusion of alternatives. Our informant also noted that they had not been able to draw immigrant and visible minority women into active participation in the Coalition.

Another informant had a different impression of the relative strength of the Coalition. She said that, in the period before the legislation was promised,

> In some ways, the whole issue was kept burning by the Equal Pay Coalition. And it was a very small flame. But it was seen as a chance to get something for women in the accord.

Out of the accord, the process of developing the legislation began.

Following the first Liberal throne speech in 1985, an Interministerial Task Force on Pay Equity was established. Its steering committee included Deputy Ministers from the Ontario Women's Directorate, Labour, the Attorney General, Industry and Trade, Treasury Board and the Cabinet Office. It was chaired by the Assistant Deputy Minister of the Women's Directorate (first Glenna Carr, and then Elaine Todres). One informant pointed out that the fact that the Women's Directorate was given responsibility for chairing the committee is significant. She said that chairing committees such as this is important because so often women are excluded from it, and therefore also excluded from controlling things like agenda setting. This informant saw this as a significant advance on the part of women in the bureaucracy.

The Task Force established two working groups to look at implementation models for pay equity. One was responsible for considering the Ontario public service, and the other the broader public and private sectors. In November 1985, two documents were tabled. One dealt with public service options. The other was a Green Paper covering the rest of the labour force.

Elaine Todres describes the process leading to the release of the Green paper as "a steep learning curve for both the Ontario Women's Directorate (OWD) and the working group."[4] She says that women at the Directorate were very conscious of the potential for a gender based issue like pay equity to divide the electorate, and that finding a middle ground was very important. They predicted that whatever legislation was introduced, women's groups would pronounce it "inadequate," while business groups would denounce it as "draconian." The Directorate worked at developing a consensus, and to "draft a bill acceptable to those were desperate to have this legislation, and to those who were just as desperate not to have it."[5] She concludes that the Green paper meant that a basic consensus had been achieved inside the government, and that it was time to take the debate to the public.

Todres points with some pride to the fact that the Women's Directorate was so successful in achieving this consensus. The Directorate, as she points out, is very small in terms of staff and resources compared to other government ministries. On the other hand, it was also the ministry most committed to achieving good legislation. She describes the complex process of what she significantly calls "managing change" both inside and outside the government. Given that the key players (the Ministry of Labour, the Ministry of Industry, Trade and Commerce, and the Women's Directorate) represented constituencies with very different interests, she notes that they "expended as much effort on leadership within the government as we did ascertaining the pubic mood and will."[6]

The Directorate's success in "managing change" did not go unnoticed within the bureaucracy as a whole. One of our informants noted that the women working on pay equity, unlike most other feminist concerns, have been positively rewarded within the bureaucracy. She said,

> It's often said that after working on women's issues you go nowhere in the system, but the interesting thing is that the women who were central on pay equity have all been promoted.

Clearly the women involved in this management of change had learned the rules of the bureaucracy, and were rewarded for it. But success in terms of the bureaucracy is not the same as success from the perspective of the women's movement. In fact, the ability to neutralize criticism to the government's iniatives which might come from feminists would seem to be one of the criteria upon which bureaucratic success is based.

The Green Paper on Pay Equity went to public hearings from February to May of 1986. The government appointed a consultation panel for the hearings composed of three "neutral" people from the business and academic communities – William Demma (Chief Executive Officer of Royal LePage), Gail Cook (author and Vice President of Bennecon), and David Clark (President and Chief Executive Officer of Campbell Soup). These appointments drew criticism from labour and women's groups because of their business orientation. The

Ontario Federation of Labour decided to hold alternate hearings and appointed Janis Sarra, then Human Rights Director of the OFL, to conduct them.

As well as holding public hearings, the government also established the Premier's Business Advisory Committee on Pay Equity and the Premier's Labour Advisory Committee on Pay Equity to discuss specific implementation questions as well as potential problem areas. The Business Advisory Committee did case studies on the potential impact on firms, although they did not make the results of these studies public. The Labour Advisory Committee looked at issues like job evaluation and the question of piece work, and did release their results. An informant indicated that the purpose of these committees, and the consultation panel, was to create a lot of dialogue, and that, from the government's point of view, the effort was successful.

As the consultation panel began its hearings in February, the Minister of Labour introduced Bill 105: An Act to Provide Pay Equity for Employees in Predominantly Female Groups in the Public Service. In September, the report of the consultation panel was released, and Bill 105 received second reading and went to committee hearings.

As Bill 105 proceeded to committee, the Women's Directorate went to work on the preparation of legislation to cover the broader public and private sectors. While the actual legislation was drafted by the Legislative Counsel's office, its framework and content were actually developed by the Directorate. One informant indicated that it was significant that this was the first time a women's branch in government was given direct responsibility for the development of legislation. It was the Directorate that was given the job of balancing the different self-interests of groups with a stake in the legislation – women, unions, employers. This meant that the Directorate, ostensibly an advocacy group for women within government, actually negotiated the compromises among all groups with a stated interest in the legislation. This is clearly problematic given that the roles of advocate and arbitrator are not compatible.

The period between the introduction of Bill 105 and the eventual passage of the second pay equity bill was described as "politically tricky" by one informant. The NDP introduced amendments to Bill 105 to strengthen it and include the broader public sector in its mandate. Given that these amendments gave the bill somewhat more "teeth," some people were surprised that they were actually supported by the Conservatives who are not notorious for their support of such issues. There was speculation that the Conservatives may have done so in order to later vote against moving the legislation to the private sector. One informant, however, said that the Conservatives on the legislative committee, Susan Fish and Phil Gillies, were on the left of their party and that may also have influenced the process. Regardless of motivation, the amendments passed.

All of this put pressure on the government to proceed with the second bill. According to one informant,

> ... the Women's Directorate [was] working against time, because the Liberals wanted to get a Bill out to show they were serious about the broader public sector and the private sector, and to avoid disaster with Bill 105.

When Bill 154, An Act to Provide Pay Equity, was introduced in November 1986, there were two Bills on the table—Bill 105 now dealing with the public and broader public sectors and Bill 154 dealing with the broader public sector and the private sector. Eventually, it was agreed by all parties to combine the Bills, with the public service added to Bill 154, and Bill 105 dropped.

Bill 154 went to public hearings in February 1987. There had been discussions among feminists concerning the legislation, especially concerning the issue of whether the Bill was good enough to warrant feminist support. One woman described these discussions this way,

> There were terrific debates provincially over this legislation. The big debate was whether we go ahead with this legislation all together, because we found it very destructive of trade unions, for example. And of women's ability to organize in trade unions ... there were many other aspects we were very unhappy with. And the whole thing became, "Should we just say we don't want this legislation at all?" Which is what most people leaned toward because it was so horrendous.

This informant emphasized that the question of rejecting the legislation outright was a difficult issue. She continued,

> ... that's always the problem. Are we going to have flawed legislation that's going to help very, very little and in fact may

> be a hindrance, just in the name of having it, or do you have none? And that was a very, very tricky point in Ontario.

Some controversy exists concerning the role of the Coalition during this period. By the time committee hearings commenced, the Equal Pay Coalition had already given its critical support to the legislation as a first step, and wanted to move quickly to achieve legislation before an election might be called. As one informant said,

> Basically, the Coalition wanted things to move quickly before an election. At one point, the Coalition even counselled member groups not to submit briefs on 154, which I thought was a total disaster.

And another informant added,

> We were telling people to get their briefs in and read the legislation and comment on it. And the Equal Pay Coalition said, "No, no, don't. There's going to be an election . . . "

An election would have meant that the Bill would not have been passed and efforts would have had to be directed to a new government which might or might not have been as committed to the legislation. In this sense, the threat of an election induced many feminists to conform to the government's timetable, and stifled debate on the merits of the Bill. The previous informant indicated that, in the urgency to achieve legislation, a critical examination of the Bill was lost. She said,

> The bind we were in was that the Equal Pay Coalition was really geared to press conferences and lobbying. And we were trying to say, "Let's read the legislation. Let's force the government openly." . . . Whenever we would say, "Have you read this? What do you think that really means?," they would say, "Oh, you're being so nitpicky." And you know, it was awful, but that's what happened.

The reluctance to take on the Bill for critical public examination meant that some women felt they were indeed in a bind—they couldn't oppose the legislation publicly, but didn't want to support it either. An informant explained,

> You couldn't be seen to be against it, but you knew it wasn't very good . . . . In that sense, the state had set the agenda, and characterized what it would be, and made it incredibly complex.

Clearly the state's ability to control the content and timing of the issue had a definite impact on feminist strategy. Furthermore, the situation caused feminists to give public support to legislation about which there are considerable private misgivings. This will make it more difficult to challenge the impact of the legislation once it is implemented, since the government can say it has given us what we wanted, or at least what we can live with.

Bill 154 passed in June, 1987. It represented a significant step in legislation in that it is the first proactive pay equity programme in North America to extend to the private sector. Public sector organizations and private sector organizations with more than 100 employees are required by the legislation to develop and implement pay equity plans. Where a union exists, the plan must be negotiated. In non-unionized workplaces, the employer is only required to post the plan, and if there is no objection from employees it will go forward. Objections are referred to the Pay Equity Commission for resolution. In no case is the employer required to file the plan with any monitoring body.

Private sector employers with ten to ninety-nine employees are not required to develop and post a plan, but are subject only to a complaints mechanism. Private sector employers with fewer than 10 employees are not covered by the act.

The Ontario programme defines a female-predominated job class as one in which at least sixty per cent of the positions are held by women, and a male-predominated job class as one in which at least seventy per cent of the positions are held by men. Although the Act does not specify job evaluation as the method on which pay equity plans must be based, it does require that jobs be compared on the basis of skill, effort, responsibility and working conditions. When we asked our informants what this might mean other than job evaluation, no concrete alternatives were given. Some informants were skeptical concerning the possibility of developing other methods within the framework of the legislation. They indicated that, while some people tried to deny that the legislation implied job evaluation, there was absolutely no reason to believe that it would in practice permit other methods.

Bill 154 was proclaimed on January 1, 1988. The first wage adjustments are required two years after this date for the public sector, three years for private sector employers with more than 500 employees, and four years for private sector employers with 100 to 499 employees. Private sector employers with fifty to ninety-nine employees can be subject to complaints after five years. The deadline is six years for private sector employers with ten to forty-nine employees. Accordingly, it will clearly be some time before the impact of the legislation can be assessed.

The question of whether Ontario's pay equity legislation is a "good first step" remains. On the one hand, Julie Davis, Executive Vice President of the Ontario Federation of Labour has said that it is important to realize that one of the most important effects of this legislation is "moral or ideolog[illegible] explains,

> By its very existence, the Pay Equity Act validates one of the cornerstone positions advanced by the women's movement and taken up quite early by the mainstream of the trade union movement. That position is simply this: that there is systemic undervaluing of the work performed by women and that it is necessary to intervene in the workings of both the labour market and collective bargaining to rectify this systemic undervaluation.[7]

Davis points out, however, that there is a gap between the stated intent of the Ontario legislation and its practical application. While the Bill proposes to measure and correct this systemic undervaluation, the actual effect of the Bill may be quite limited. She continues,

> It is a limited programme which will close a part of the wage gap, for some women, in some workplaces, over a lengthy period of time. And hopefully, the limited resources mandated by the Bill will not be entirely eaten up by high priced management consultants selling complicated job evaluation programmes which claim miraculously to save employers money while giving women money at the same time.[8]

One of our informants, with experience in both unions and the women's movement, speculated on the possible scenarios that might result from the passage of Bill 154. Her main concern was that the discrepancy between the stated intent of the Bill and its content will be reflected in how the issue is seen in the future. She said,

> I guess my worst fear is that nothing will happen at all and then people will say something did happen. My next worst fear is that its going to be a total mess, that changes will occur but there will be so much dissatisfaction with the changes that nobody will want to address that kind of issue again.

Our informant was not without hope, however, that the situation could be salvaged. She continued,

> I guess the best thing that could happen is that unions and employers and employees will go through the exercise that they're required to go through, and as a result of that exercise workers will be even more motivated to deal with the problem, because they, through the exercise, understand that the issue was co-opted, that an attempt was made to divert them, and they'll come out stronger. And I think it's possible to make sure that is the result. But I think to get that result, we'll have to move very carefully and give a lot of thought before we even begin the exercise.

There is often a discrepancy between the stated intent of legislation and its actual impact. It is not unusual for statements of principle in legislation to reflect feminist demands (and their effect on public opinion) while the translation of those statements of principle does little to challenge the status quo. Principles are one thing, actual change often quite another. Some might say this discrepancy reflects the need for women to compromise our demands to get some change. But this explanation raises as many questions as it answers. Accepting that compromise is often necessary, how do we determine whether a given "first step" should command our support? How do we avoid letting the state set the agenda and becoming trapped in a "take it or leave it" mentality? And what guarantee do we have that even the promises they make will be implemented in our interests? What are the differences in roles between feminists working in women's groups, unions, and within the bureaucracy of governments? In addition to these questions, which we will address in Chapter 7, we must also consider how the techniques used in the implementation of legislation must be seen as integral to it. In the case of pay equity, we cannot consider its relative merit without looking at the role of job evaluation.

Footnotes:

1. Commission on the Economic Status of Women, *Pay Equity: the Minnesota Experience*, p 15
2. Van Schie, "The Minnesota Pay Equity Freeze" p 8
3. speaking notes, Hon. Eugene Kostyra, News Conference, September 30, 1987
4. Todres, "Managing Pay Equity: A Bureaucrat's View of Bill 154" p 9
5. Todres, p 9
6. Todres, p 2
7. Davis, "Address to the B.C. Federation of Labour Conference" p 4
8. *Davis*, p 4

JOB EVALUATION

Job evaluation is a highly contentious issue relating to pay equity, and as we have seen all legislation to date has relied on it. Job evaluation programmes are designed to assess the relative value of job content in order to allocate wage adjustments. We have already discussed in Chapter 3 the disagreements among our informants on the issue of whether it is indeed possible or desirable to compare the content of work at all. In this chapter, we will look at the way in which job evaluation schemes are applied. In doing so, we raise the question of whether the adoption of such methods warrants our support.

Job evaluation techniques were initially developed to assist employers in the rationalization of pay scales. While it has its origins in the late nineteenth century, job evaluation became entrenched as a business practice in the 1940s and 1950s. In the 1980s, it has seen a surge in popularity. An important reason for this is the perceived need to have a mechanism through which jobs can be compared for the purposes of pay equity programmes. But it is important to remember that, from the beginning, job evaluation has been a tool designed for employers' use. The systems were created with management in mind.

Defining Job Evaluation

Traditional Job Evaluation

Job evaluation is a method of assessing the value of jobs on a number of dimensions, often skill, effort, responsibility and working conditions. Each dimension under consideration is composed of a number of different factors. A numerical score is assigned to each factor and a total score for each job is calculated.

Traditional job evaluation systems (also called *point factor* or *a priori* systems) begin with the preparation of a job description for each job category. These job descriptions are then used to assess each job according to how much of each factor they contain. Points are assigned to each factor and a total calculated using statistical analysis which accounts for the differing weight assigned to each factor. These totals are then translated into a salary level.

Pay equity programmes call for equalizing the wages of job categories that are found to have identical scores. Job categories are deemed to be *female-dominated* or *male-dominated* if they are composed of at least a minimum percentage of women or men. To a great extent, the selection of this percentage figure is arbitrary. Many pay equity plans use sixty or seventy per cent to define a male- or female-dominated job.

Although there are many others, the best known point factor approach to job evaluation is the *Hay system*. As we discussed in Chapter 5, this is the system that was used in pay equity programmes in both the Minnesota and Manitoba public service. It was developed by the American management consulting firm Hay Associates, and was already being used in both the public and private sectors before its adaptation for the purposes of implementing pay equity. The Hay system uses four scales that reflect the skill, effort, responsibility and working conditions criteria generally required by pay equity legislation: Know-How, Problem Solving, Accountability, and Working Conditions. Each scale includes a number of subscales. For example, the Know-How scale includes the subscales of Technical and Professional Knowledge, Managerial Knowledge, and Human Relations.

Many criticisms have been made by feminists concerning gender bias in job evaluation systems. Pay equity programmes generally call for a *gender neutral* job evaluation system. In theory, gender neutrality means that both the content and application of the plan must be purged of any influence of gender in determining the relative value of jobs. As we will see, however, achieving gender neutrality in job evaluation is at best a difficult and frustrating process.

Policy Capturing

One attempt to develop a gender neutral job evaluation scheme is the *policy capturing* method developed by the Center for Women in Government at the State University of New York at Albany. Unlike traditional approaches, the policy capturing method does not begin with a specified set of factors on which jobs are then assigned points. Instead, it analyzes existing wage setting practices to develop a statistical model to determine what factors are currently valued for both female and male job categories. Job content information is obtained by sending questionnaires to a large number of people in jobs to be evaluated, and computer analysis then provides information on the values implicit in current wage setting practices.

This approach does have the advantage of making more explicit the value judgments being made in the job evaluation process. It cannot, and is not intended to, challenge what those value judgments are. As the Center for Women in Government concludes,

> It was believed that this approach was best suited to a comparable worth study because it was based on what [the employer] *does* value and not what [the employer] should value. Once we determined what [the employer] actually values in job content by developing factors and weights, we would base the estimates of undervaluation on the existing, and not explicit . . . compensation policy.[1]

There was disagreement among our informants concerning whether the policy capturing method is a significant improvement over more traditional models. One informant said that by using a statistical analysis to figure out what existing pay policy is, it is then possible to make adjustments using that information. For example, if working conditions are negatively valued in the current wage setting practices, they can be adjusted to account for that.

Another informant, however, was less than positive about this approach. She indicated that it is new and not well tested, and that its problems may stem from its development in an academic environment. According to this informant, "it's not exactly garbage in, garbage out, but . . . ." She said that, while people like to think that the use of multiple choice questionnaires takes the bias out, this is not necessarily the case. But she added that people from both unions and management had been attracted to the approach because it is fast and avoids the need for rating committees. From her point of view, however, an approach based on questionnaires run through a computer can't make discriminations between positions that a human committee can.

Problems with job evaluation

Virtually all our respondents agreed that there are serious problems with job evaluation, whether or not they indicated that pay equity programmes based on those systems warrant our support. Indeed, there was a considerable contradiction expressed by some informants concerning their support for pay equity while criticizing the job evaluation techniques through which it is implemented. Criticisms of job evaluation range from accusations of sex bias, to the way in which complex systems mask the value judgments being made, to the danger of systems being used for purposes other than pay equity. While some informants said that these criticisms of job evaluation are not enough to cause them to reject it entirely, others indicated that the use of job evaluation is likely to create more problems than it solves.

Job Evaluation as a Management Approach

As we have already said, job evaluation techniques were developed for employers. In an article on job evaluation research, Donald J. Schwab describes job evaluation this way,

> Job evaluation is generally characterized as an administrative procedure designed to help employers develop and maintain job hierarchies for purposes of making pay differentials. Moreover, there is general agreement that the objective of job evaluation is to produce an acceptable pay structure.[2]

This definition emphasizes the management orientation of job evaluation programmes. When it indicates that the goal is to produce an "acceptable" pay structure, we must ask, of course, "Acceptable to whom?" Historically, job evaluation has been developed to produce structures that are acceptable to management. The vast majority of existing systems were originally developed by management and management consultants to rationalize and legitimize pay scales and to maintain the status quo in wage setting practices. The intent was to codify existing practices, not to fundamentally alter the way in which people are paid. A number of our informants echoed the response of one who said,

> I see [job evaluation] as a management tool, and I'm suspicious of it.

Management consultants, however, are now eager to prove that their systems are perfectly consistent with the goals of pay equity. After all, there is a great deal of money to be made in the pay equity game. Elaine Todres notes that, when pay equity legislation was being developed in Ontario, the consultants initially resisted it. Yet they quickly jumped on the pay equity bandwagon. She says,

> In the beginning, job evaluation and management consultants resisted collaboration since many were part of the coalition opposing the bill. However, as Bill 154 progressed from possibility to probability, these professionals offered valuable guidance, particularly with technical issues.

Todres does not speculate on the reasons for this apparent change of heart. It is unlikely, however, that it resulted from a fundamental shift in their view of pay equity legislation, or the issue of wage discrimination generally. More likely, they saw an opportunity to corner the market on pay equity implementation, and hence advance their own (and employers') self interest.

Another informant emphasized that job evaluation is not only management biased and controlled, it also promotes the principle that inequality itself should be maintained. She said,

> I think [job evaluation] is terrible. I mean, it's accepting the basic premises of inequality. And no matter what way you say it, you end up saying, "Isn't it true that a clerical worker is better educated and the work more important than a garbage man?" I'm very conscious of that in my place of work. I mean, it doesn't matter what nice terminology you put it in, you're really saying, "Who is worth more?" And suppose you don't think anyone's worth more. And who makes up the job evaluation system and what's built into it? That is the crux of the problem, because as far as I know there's no equal pay system in North America that's not built on job evaluation.

This entrenchment of inequality has a number of side effects. Several informants indicated that job evaluation programmes are very disruptive in the workplace, and that they pit worker against worker. This is not surprising given that job evaluation claims to establish "value." If certain jobs are deemed to have "more value," it follows that others must have less. As an informant concluded,

> In the meantime, a lot of workers would be in a great deal of turmoil, because job evaluation plans really hurt people's feelings—I don't know how else to put it. You know, they're all based on, or can be interpreted as being based on, this person is smarter and this person is dumber.

Of course, reinforcing inequality is related to the maintenance of hierarchies referred to in Schwab's definition of job evaluation. It is at least ironic that, in our quest for "equality" we have adopted a methodology whose very purpose is to rationalize and legitimize inequality. Surely such an approach will fail to work in our long term interests. And job evaluation is particularly dangerous because it obscures the way in which hierarchies are maintained by presenting itself as "scientific" and "objective," and by using complex models that are really only understood by those who create, control, interpret, and implement them.

Masking value judgments

Job evaluation plans claim to provide an objective method for determining the value of work. But as we discussed in Chapter 1, presenting a methodology as "objective" often serves to hide just whose interests are being promoted. This is no less true for job evaluation.

James E. Rosenbaum, in a study of pay practices in a large American corporation, found that job evaluation did not substantially overcome wage differentials. He claims that job evaluation programmes hide behind their claim to objectivity and scientific procedure, and therefore are seen as legitimate in their assessment of the value of work. He says,

> What is particularly disturbing about this is that the presumed objectivity and rationality of job evaluation may serve to confer legitimacy to these outcomes under the mask of scientific procedure. Job evaluation programmes tend to be implemented with great fanfare about their "scientific" basis, and a considerable amount of meticulous work goes into the development of job descriptions and quantitative ratings. Nonetheless, the judgmental process is likely to include a strong subjective component . . . .[3]

Several of our informants indicated that job evaluation, under the guise of a technical, rational approach, in fact implements assumptions about the value of work that are not stated. This, of course, makes the results of job evaluation very difficult to challenge, because its very basis is not clear. This difficulty is reinforced by the fact that the methodology used in the implementation of the system is in the hands of "the experts" – those who have developed the programme and have a vested interest in selling it to employers and in convincing employees (and their unions) that their particular system is "fair." Control of knowledge is always a powerful tool, and job evaluation ensures that control is maintained by a very few who claim to be neutral in their use of that knowledge.

The potential for abuse in job evaluation is significant. One informant pointed out that, since only the job evaluation experts know exactly how their system works, they can influence the results and make it virtually impossible to challenge them. She said that if the points "screw everything up" for employers, the consultants (who are, after all, working for the employer) will say, "leave it to us," and manipulate the system in the employer's best interest. She pointed out that the consultants control not only the content and application of their system, but also the technology that is used to implement it. She continued,

> There's a copyright issue in getting at their [computer] software. They won't tell you exactly what they did. So when you say, "How did you get that number?," they say, "Well, it's very complicated."

Job evaluation attempts to reduce the factors involved in setting wages to technical issues, and one of our informants indicated that this is a fundamental problem with its use. She said,

> The problem of pay equity is not a technical problem. Job evaluation is not scientific, but a judgement. What is the real meaning of the work women do. This is the real debate, not job evaluation.

Reducing wage discrimination to a technical problem essentially removes it from the realm of economic and political struggle. This informant suggested that the government might adopt job evaluation in order to deviate from the real issue, and that this creates problems because whatever alternatives are presented don't seem as scientific. However, it is clear that the "scientific" results achieved by job evaluation frequently present results as "objective" that actually conceal value judgments concerning the value of work—value judgements that do not work in women's interests.

Gender Bias in Job Evaluation

Virtually all our informants admitted that there are problems concerning gender bias in job evaluation. As one informant said,

> There is no such thing as the perfect, gender-neutral job evaluation system. That animal doesn't exist.

Determining just how systems are gender biased, however, can be a difficult process because of the way in which they are presented as objective. Furthermore, the factors which are biased against women are often cloaked in language that does not make that bias clear. Finally, the content of women's work is often invisible and therefore not "seen" through the filter of job evaluation.

Some of the ways in which job evaluation schemes are gender biased are relatively obvious, at least to those of us who have ever worked in female-dominated occupations. For example, jobs requiring the use of large muscle skills are generally weighted more heavily than those requiring small-muscle skills more common to female dominated occupations. Furthermore, systems often exclude skills that are common only in female-dominated jobs. For example, Ronnie Steinberg and Lois Haignere cite a study of job classifications developed by the U.S. Department of Labor which found that the evaluators had overlooked important characteristics of female-dominated jobs. This was particularly true when the jobs in question involved taking care of children. The evaluators "did not regard these as job related *skills* but rather as qualities intrinsic to being a woman."[4]

Steinberg and Haignere also show that it is not only women's skills that are invisible in job evaluation schemes. Factors relating to the effort, responsibility and working conditions of women's jobs are also overlooked. They list twenty-eight factors often excluded in terms of job content of female jobs:

Fine motor movement skills like rapid finger dexterity

Special body coordination or expert use of fingers and hands (e.g. typing, giving injections, sign painting)
Scheduling appointments
Coordinating meetings
Record keeping
Filing
Writing standard letters
Reading forms
Protecting confidentiality
Working office machines
Cleaning up after others
Sitting for long periods of time
Time stress
Communication stress (dealing with upset people – gathering information from upset or ill people, calming upset people)
Stress from distractions
Stress from concentration (e.g. from video display terminal)
Stress from exposure to the sick and disabled with no hope of recovery
Stress from multiple demands (receiving work from lots of people)
Stress from multiple role demands (being asked to do work quickly and to provide better service to several people)
Working with constant noise
Working in an open office setting (with room dividers, without room dividers)
Answering questions for the public on the phone or in person
Answering complaints from the public
Responsibility for inmates, patients, or residents of institutions
Degree of severity of problems of inmates, patients, or residents of institutions
Degree to which new or unexpected problems on the job arise
Damage to equipment from a mistake[5]

Some of these factors are "invisible," such as the various kinds of stress involved in many female-dominated jobs. Others are reflections of roles women are expected to perform both on the job and in the home, such as "cleaning up after others." There are undoubtedly other factors that are not included here. What this makes clear, however, is that it is an enormous task to uncover all of the possible gender biases of job evaluation, much less correct them.

Gender bias in job evaluation is not restricted to the choice of factors included in the system and their relative weight. The preparation of job descriptions, for example, has a significant effect on how the job will be assessed. As Margaret White and Marcy Cohen of Vancouver's Womenskills point out, job descriptions themselves can make much of women's work invisible. Job descriptions for clerical workers, for example, tend to emphasize procedures and de-emphasize goals and decision making. They cite the example of York University in Toronto, and show how the stereotype of clerical work as minimally skilled is reflected in job descriptions. They write,

> At York University, for example, management job descriptions have duties formulated in terms of overall purpose and responsibility; job duties for clerical workers are listed as routines. These clerical job descriptions have no category for decision making and limits are placed on what responsibilities can be recognized as part of a clerical job. No doubt job evaluations based on these job descriptions will reinforce the undervaluing of clerical work, as the job descriptions define away many of the skills clerical workers actually use on the job.[6]

Since job descriptions are the starting point for job evaluation, the process through which they are composed has a significant effect on the results. Even when workers themselves are responsible for preparing their own job description, it is easy for management to place constraints on what is a "legitimate" requirement for the job. Workers involved in job evaluation report that job descriptions generally must be submitted to a supervisor for approval, which can lead to the screening out of many aspects of women's work. What remains invisible cannot be evaluated.

Even if we assume that the question of gender bias in job evaluation can be adequately addressed, there is no guarantee that women whose jobs are subject to the evaluation will benefit equally from its implementation. Once the number of points for a given female-dominated job category has been assessed, a male category with an equal number of points must be found. We have seen in the example of health care workers in Manitoba, for example, that comparing women's jobs to men's results in relatively little money for women precisely because their jobs are being compared to those of men working in a female-dominated industry. This problem is not exclusive to health care workers, but their example demonstrates that the amount of money women will receive for the assessed value of their jobs is arbitrary. Depending on who one is lucky (or unlucky) enough to be compared with, the return may be significant (or not).

Women often assume that they will get "good" comparisons based on the examples often cited when pay equity programmes are being promoted. They may believe that their clerical jobs, for example, will be compared to those of labourers and tradesmen, and that they will therefore get a significant increase. But when the evaluation takes place, however, this may or may not be the case. One of our informants indicated that one woman may work in a job that has more points than another, but get less of a wage adjustment because of who she is compared to. She said,

> . . . for sure you will get women who are lower than other women [but] who get lucky enough to get compared to blue collar who, because of their bargaining strength, have far fewer points but lots more money. These women get this nice blue collar comparison and lots of money. These [other] women are getting schmucky non-union middle-management or something with no more money. So they're going to get less money even though they may have more points.

Can Job Evaluation Be Saved?

Our respondents agreed that there are significant problems with job evaluation. They disagreed, however, on the issue of whether we should support legislation based on job evaluation as a good first step toward our goals. This leads us to the question of whether job evaluation can be saved.

Joan Acker has provided a case study of an attempt by feminists to ensure the best possible results from the application of job evaluation. Acker was a member of the Oregon Comparable Worth Task Force, which was established in 1983 to determine comparability among state jobs by application of a single point-factor job evaluation system, and to bring recommendations on a comparable worth plan to the Oregon legislature.

The Task Force members were well aware of the criticisms of sex bias that had been made of all existing job evaluation systems. However, limitations of time and resources led them to hire Hay Associates. They saw Hay as a prominent and respected company doing comparable worth studies. They were also attracted by Hay's stated willingness to make some modifications of factors and factor definitions in response to concerns about sex bias.

But the feminists on the Task Force met with stiff opposition when they actually tried to examine and change factors within the Hay system. Acker discusses the frustration that accompanied these attempts to make the factors more accurately reflect the content of women's work. What became clear is that the consultants were not prepared to accept any change that would cause a significant restructuring of wage hierarchies. For example, when Task Force members argued for an expansion of the Human Relations scale of the Hay plan (which had fewer levels of skill when contrasted to the Technical and Professional Knowledge or Managerial Knowledge scales) in order to more accurately reflect the range of women's jobs, the consultants consistently argued against it. As discussions proceeded, the unwillingness of the consultants to change the existing system was exposed as essentially an unwillingness to challenge the status quo. Acker reports,

> . . . the consultants revealed two concerns about increasing the number of levels in the Human Relations scales. First . . . increasing Human Relations scores *would result in a higher value placed on human relations relative to management skills.* Second, additional levels of Human Relations *might decrease the point spread between managerial and non-managerial jobs.*[7] (emphasis ours)

The Task Force split along predictable lines on this issue.Management representatives sided with the consultants from Hay, while worker and women's movement representatives continued to press for change. Although a "compromise" was eventually reached, its wording as developed by the consultant essentially reflected their original concept. In practice, the resulting scale functioned no differently from that they had originally proposed.

This was just one example of the difficulties encountered by those attempting to alter job evaluation systems. Acker suggests that, while it may be technically possible to modify even a complex system such as Hay, it was impossible in this case because the consultant was in control of the job evaluation instruments and the training for the evaluation process. Acker concludes,

> Attempts to minimize sex bias will be met with powerful opposition if these attempts threaten the internal stratification of organizations. The elimination of sex bias is potentially subversive of existing hierarchies . . . in the long run, it would seem that the elimination of sex bias depends on an overall attack on inequality.[8]

Several of our informants agreed that job evaluation systems are very difficult to change. One informant said that since such schemes are there to support existing pay practices, it is unrealistic to believe that they can be fundamentally changed to serve in our interests. She explained,

> I think job evaluation schemes that presently exist are extraordinarily difficult to change. You know, the ones that are there for rationalizing the pay scale and have nothing to do with pay equity are very, very difficult to change. And they almost have to be done on a classification by classification basis, and grievances, and—everything . . . . I think that's one of the reasons why we're hesitant about this whole process. That once it's done, it will be seen to have been done forever.

Not all of our informants, however, said that job evaluation schemes were beyond hope. One woman noted that employees are evaluated by employers anyway, so that the best we can ensure is that it's as fair as possible and that we have input into it. Another pointed to actual improvements that have been made in some plans. For example, several plans now give greater weight to the working conditions factor than was previously the case. And one informant emphasized that it is very important that unions and women's groups encourage the development of our own experts who can replace the more traditional consultants. She said,

> [The consultants] know one thing and that's what they keep advocating to everybody else. You have to have people who are flexible, who can think on their feet, and develop them.

> There's been several [plans] developed since with some good folks that challenge the status quo.

Perhaps the most common issue raised by those willing to try job evaluation is the lack of an alternative. One informant conceded that there are many criticisms of job evaluation, some of which are valid, but that there is no obvious alternative. Another said that she could see that, politically, a government needs to rationalize that they're "not just throwing money at female jobs," and that job evaluation gives the appearance of rationality. She also indicated that, while she was sure there must be another way other than job evaluation, she wasn't sure what it would be.

In any case, it is clear that job evaluation will continue to dominate the pay equity scene until clear alternatives are developed and promoted. In the meantime, women must learn to use job evaluation to the best possible advantage where it is required by legislation. It will mean developing our own experts, and demanding that the job evaluation process be as open as possible. Where job evaluation is not required, however, we can and should seek alternatives to addressing wage discrimination that better serve our interests.

Footnotes

1. Centre for Women in Government, "Designing Job Evaluations to Meet Comparable Worth Criteria" p 4
2. Schwab, "Job Evaluation Research and Research Needs" p 37
3. Rosenbaum, "Persistence and Change in Pay Inequities: Implications for Job Evaluation and Comparable Worth" p 137
4. Steinberg and Haignere, "Equitable Compensation: Methodological Criteria for Comparable Worth" p 165
5. Steinberg and Haignere, *ibid.* pp 168-9
6. White and Cohen, "Biases in Job Evaluation" p 2
7. Acker, "Sex Bias in Job Evaluation: A Comparable Worth Issue" p 189
8. Acker, p 196

ISSUES ARISING FROM PAY EQUITY

Our informants do not agree on the effectiveness of legislated pay equity as a response to wage discrimination. Some view the legislation as a clear victory for the women's movement; others as an acceptable, if limited, first step; and still others as a potentially disastrous attempt to co-opt and control the issue. What has been largely missing from feminist debate, however, is a consideration of several key questions:

> Why have governments responded to feminist demands by introducing legislation at this time?
>
> Why was the particular framework of pay equity chosen as a solution to women's economic position?
>
> What criteria do we use to determine which view of the legislation most accurately reflects its function?
>
> Finally, and perhaps most importantly, where do we go from here?

Why Pay Equity? Why Now?

The Motivation for Government Response

It is always difficult to know why governments choose to respond to some feminist issues and not others, or why they choose to respond at a particular point in time. There can be no doubt, however, that government's motivation for the introduction of pay equity (or any women's issue) arises from their perception that it is politically necessary to "deliver" something to women. Pressure from women's organizations, combined with the hard-won influence of women working inside political parties, means that politicians (or at least some of them) understand that they must be seen to be responsive to feminist concerns. The state is always concerned with maintaining its legitimacy; it must, therefore respond (or appear to respond) to issues that have achieved public support.

This does not explain, however, why the particular issue of pay equity has been adopted as a key government initiative in a number of different jurisdictions in the mid-1980s. While we should not minimize the effect of the work done by women's groups on this issue, it is also true that women's groups have been equally active on other issues where results have not been so forthcoming. So why pay equity? Why now?

A part of government's willingness to adopt pay equity must be attributed to its "salability" as an issue. Public opinion polls consistently provide evidence that the majority support the principle that women should be paid equally, although interpretations of what that might mean in practice may vary.

It should not be overlooked, however, that it has been social democratic parties (either directly, as in Manitoba, or indirectly, as in Ontario) or governments in places with a progressive populist tradition (as in Minnesota) who have actually been willing to take the plunge and introduce pay equity legislation. It is often tempting to view government as part of a monolithic state apparatus, without identifying the influence of the political traditions of those who actually wield power at the time. Given the importance of "political will" to the implementation of pay equity identified by many of our informants, these traditions play a role in determining the approach that will be taken to finding solutions to issues raised by the women's movement.

The willingness of social democratic parties to respond to the issue of pay equity in part reflects the hard work of women in those organizations to insist on a place for women's issues within the political agenda. It also probably reflects their perception that women are a constituency that would be ignored at their peril.

In addition, however, we should recognize that pay equity is an issue that fits consistently within the social democratic tradition. It falls into the "fairness" and "justice" framework that social democrats have consistently promoted. It is a workers' issue, and therefore salable to their historical constituency. The old bugaboo of "interference in the marketplace" does not elicit the kind of horrified reaction among social democrats as it does with other, free enterprise-based political parties.

But there are additional reasons why pay equity is a method that is appealing to governments. To understand why, it is necessary to discuss the essential elements of the pay equity approach.

The Pay Equity Approach

Pay equity programmes that have been passed to date all have four basic characteristics in common:

1) They are *proactive programmes*—i.e. they require employer action to implement a pay equity plan.
2) They are *based on a comparison of job content* (usually defined as skill, effort, responsibility and working conditions) and implicitly—and often explicitly—require some form of job evaluation.
3) They are *phased-in programmes* which require years to complete.
4) They *claim to end gender-based wage discrimination* in the workplace.

Each of these characteristics must be well understood in order to assess the usefulness of the pay equity approach.

The fact that pay equity programmes must be proactive is a clear response to pressure from women who have learned through experience that complaint-based models simply do not have a wide spread impact on systemic discrimination. Furthermore, complaints-based models are virtually impossible for unorganized women to use, and provide no real protection from reprisals or harassment for women who may try to use them. In this sense, shifting the onus of responsibility to act on wage discrimination away from individual women to the employers who are responsible can be seen as a positive step.

However, requiring employers to institute pay equity programmes really does little to challenge the absolute right of employers to set wages, especially in the absence of criteria by which to judge the results and a mechanism through which they can be monitored.

In non-unionized workplaces, the employer still has the right to select the plan to be used, as long as it assesses skill, effort, responsibility and working conditions, and as long as it is "gender neutral." Given what we know about job evaluation, there is a great deal of difficulty (and some would say impossibility) in generating a "gender neutral" plan even with the best of intent. Since employers will be seeking to comply with the legislation at the least possible cost to themselves, it is unlikely that "the best of intent" will be there. Furthermore, the complexity of job evaluation and its control by management consultants means that it will be easy to find programmes that will operate in the best interests of employers, not women, while masking exactly whose interests are being served.

Requiring plans to be posted and then deemed acceptable if there is no complaint from employees does nothing to fundamentally challenge employer control. Job evaluation plans are so complex that few employees will have the knowledge to adequately challenge them. Furthermore, we know from experience that employees who do "rock the boat" are often subject to direct reprisals, or, at the very least, to harassment, especially in unorganized workplaces.

Organized women, of course, are in a somewhat better position to make gains since, in the two Canadian provinces at least, their unions will negotiate the plan to be used. They have the usual additional strength that comes through collective bargaining, the resources of their unions in determining better job comparison systems, union protection from reprisals and harassment.

Still, we should not overestimate the role of unions as "equal partners" in negotiating pay equity. Employers still hold most of the cards in collective bargaining. Negotiation of pay equity increases appears to work most effectively in the public service where there are a large number of both female and male categories available for comparison, and where the government is both the initiator of the legislation *and* the employer and therefore has a vested interest in demonstrating the programme's success. In other jurisdictions, the bargaining structure is often burdened with even more problems than the usual collective bargaining situation. In Manitoba health care bargaining, for example, the fact that it is essential from the union's perspective to bargain among all hospitals and unions in order to achieve enough job classes that have more than ten incumbents meant that they were forced to concede the exclusion of (highly paid) management classes from the pay equity plan. In these situations, the employer is more interested in minimizing the cost of compliance with the legislation than in the political gains to be made through its success.

In Chapter 3, we have already discussed the relative merits of basing any programme to address wage discrimination on the comparison of job content. Comparing jobs according to skill, effort, responsibility and working conditions relies on employer-defined characteristics of work to determine wages, and thus is necessarily open to manipulation by employers. It assumes that it is both possible and desirable to determine the "value" of work as a basis of pay. It also erroneously assumes that historically there has been a rational means through which male wages have been determined, and that it is now only necessary for women to fit ourselves into this logical system.

Despite the flaws in the very concept of comparing job content, feminists for years have promoted its use to establish "equal pay for work of equal value" and "pay equity." If, as almost all of our informants indicated, the real purpose of the exercise is to get more money for women, why have we so widely adopted the concept of job comparison, as opposed to other, more direct methods of getting money?

The use of the phrase "equal pay for work of equal value" in international documents has undoubtedly influenced the development of a feminist position on this issue. More significant, however, has been our inclination to look to adjusting those structures already provided by the state in order to make them work better for women. When "equal pay for equal work" had minimal impact, we looked to "equal pay for similar work" and then to "equal pay for work of equal value." And now we look to "pay equity." The important point here is that in this development we have not looked beyond the job comparison framework to advance an alternative solution.

There are, of course, perfectly logical reasons why we have followed this route. Most feminists, like most of the population, have internalized the idea that this society really wants to be "fair" and that we need only demonstrate the unfairness of the system to achieve redress. However, while the state may claim to promote "a just society," it has never claimed to be fair—and feminists have learned through experience that state-defined justice is not synonymous with fairness for women.

Yet even those of us who have come to realize that fairness is really not a fundamental value promoted by the state are sometimes attracted by the fairness argument. Furthermore, it is entirely understandable that women want our work to be "valued," and compensated as such. But we must continue to remind ourselves that the structure and function of the state is not to promote fairness, and that value has never been the basis upon which workers have been paid.

So why should we now rely on the state to determine what is fair and what should be valued? Why should this work for women now?

Our acceptance of the concept of job comparison has allowed government to adopt it as a solution to wage discrimination, and therefore to claim that it has responded to our needs. The translation of the issue of wage discrimination into pay equity based on job comparison has allowed government to manage the issue and keep it under control. It is no accident, then, that governments boast of the implementation of measures that both eliminate wage discrimination and have minimal impact on costs. Given what we know about women's real economic situation, this claim alone should make us skeptical about the programme's real function.

Job comparison, and its usual translation into job evaluation, is complex—an added benefit to government (and employers). Institutionalizing a complex system of job comparison serves to keep control of the issue away from those most directly affected by it—working women. This is not a rejection of complexity for rejection's sake, nor is it a condescension toward women who do not understand the systems. The point, as demonstrated in Chapter 6, is that job evaluation systems and the pay equity programmes that utilize them are *intentionally* complex in order to maintain control with the employer and mask the value judgements being made. With an issue like wage discrimination, which has become more and more obvious as an issue of great magnitude affecting the daily lives of the majority of women, it is absolutely essential that the state maintain control. In that way it can promote small changes which address the situation to a very limited extent, while at the same time failing to fundamentally challenge the status quo. And because control is kept out of the hands of working women, it is very difficult, if not impossible, for us to challenge the results.

What all of this means is that the women's movement may well have made a mistake in adopting the concept of job comparison as the basis for a solution to wage discrimination. In addition to the difficulties raised by the very notion of "value" itself, feminists' acceptance of job comparison has allowed the state to control and manage the issue without the kind of fundamental change we know is necessary. At the same time, it allows the state to argue that they have given us what we wanted. It is important to recognize that this process need not be a conscious conspiracy against our interests. It is simply a function of the way in which the state operates to achieve the appearance of significant change while essentially maintaining the status quo.

Another way the state can minimize possible negative reactions to legislation is to choose a model that is phased-in over a lengthy period of time. Most obviously, this means that those opposing the legislation (in this case, employers) will feel its impact slowly, and will be less likely to cause a political fuss. However, this also has an impact on the reactions of working women whose interests are supposed to be served by the legislation. Stretching out the implementation of legislation means that governments can be seen to be addressing an issue now and therefore insist that no further action is necessary until the final impact is known years down the road. Further demands are thus diffused, and can be easily categorized as unnecessary, unreasonable or, at the very least, premature.

The final unifying characteristic of pay equity programmes is the state's claim that they will solve the problem of gender-based wage discrimination. Virtually all of our informants agreed that many other measures are necessary, although there was some disagreement concerning the extent of the disparity between the claims of pay equity legislation and its practical results. Yet our insistence that this disparity exists does not stop the state from presenting the problem as solved. It is always dangerous to accept a solution that claims to do something that it does not. This is especially true when the solution chosen is so effective in masking what is really going on, and when the final impact of that solution will not be felt for years down the road.

The Bureaucracy

Feminists have had a complex set of reactions to and interactions with the bureaucracy of government. We are often critical of the hierarchical structures reflected in bureaucracies. We are sometimes suspicious of bureaucratic attempts to co-opt our issues, and frequently angered by the bureaucrat's unwillingness to respond to our initiatives. At the same time, feminists engage in negotiations with representatives of bureaucracies to promote our issues, to influence legislation, and, significantly, to obtain funding for much of our work.

Issues like pay equity pose particular problems for how the bureaucracy responds because many of the key players are women, and feminists, themselves. Most of them have become involved in women's issues within governments because of a sincere desire to change the system from within. This does not change the fact, however, that the functioning of the bureaucracy has a significant impact on the development and implementation of solutions to feminist issues. When feminists achieve positions within the bureaucracy, this fact sometimes becomes obscured.

This is not, of course, to cast aspersions on individual women who have attained these positions. There is nothing inherently wrong with a desire to advance within the bureaucracy, or with then trying to use one's influence to advance feminist issues, as long as one is clear about the limits imposed by the structure and function of bureaucracy itself. Kathy Ferguson, in her feminist critique of bureaucracy, is careful to make this point,

> I do not mean to cast aspersions onto women's professional ambitions. As a professional woman myself, that would be offensively inconsistent; further it would also ignore the fact that at least some professional positions offer the opportunity to do rewarding work and that access to such positions is often the only avenue to decent paying jobs. Efforts to move up in the organizational world often provide both material and social rewards for individual women; such efforts are understandable, but there is nothing particularly feminist and certainly nothing radical about them. The argument that organizations will somehow be altered by virtue of recruiting women into them is . . . fallacious.[1]

Advancing a critique of the role of bureaucrats in developing and implementing these solutions is a difficult process precisely because it is necessary to be clear about the distinction between an individual's feminist views and motivations and her role within the bureaucracy. Criticizing bureaucratic roles and functions while being careful to avoid attacking the individual's good faith is rather like walking a tightrope. Nevertheless, it is not possible to understand legislation unless we understand the way in which it is achieved, including the role of the bureaucracy.

Elaine Todres' reference to the role of the bureaucrat in "managing change" is a telling reflection of the function of the bureaucracy in implementing pay equity. The primary role of the bureaucracy is not to develop solutions that reflect the stated intent of the legislation, but rather to ensure that all of those within government and its bureaucracy who have a stake in the outcome are happy—or at least not too unhappy—with the result. It is a balancing act between constituencies. One informant told us, only half jokingly, that if everyone was *somewhat* unhappy with a new proposal, it was probably a good sign. Individual women may try to push as hard as then can within these parameters, but ultimately their allegiance must be to the bureaucratic role which exerts more direct control over their actions than their personal feminist views, however strongly held.

The nature of the bureaucratic role is often reflected in the criticisms that feminists have of women in the bureaucracy. An informant told us that some women within a bureaucracy did not realize the extent to which they were perceived as the experts on pay equity; she was frustrated that they would not state publicly those criticisms of the programme that they would make privately.

The point, however, is that it could not be otherwise given the function of bureaucracy. As Ferguson points out, opposition within bureaucracy is equated with disloyalty, and "conformity and the abandonment of critical consciousness are the prices of successful performance in the bureaucratic world."[2] While some women in the bureaucracy may strive to maintain that critical consciousness, it is a difficult task. In any case, it cannot readily, if ever, be reflected in their role as bureaucrats.

Feminists generally welcome the appointment of feminists to positions of influence on our issues. Certainly, it is to our benefit to have women who believe in those issues in these positions. At the same time, however, we must also recognize that it is advantageous to government as well. By placing feminists in visible positions, governments gain our trust, while ensuring that those women are confined by the limits of the bureaucratic structure. This places feminists within the bureaucracy in the position of translating the apparently unacceptable demands of the women's movement into a framework that is acceptable to the state.

It is essential, therefore, that we limit our expectations of the bureaucracy, even if its representatives are women and feminists. We cannot rely on the bureaucracy to play a critical function in the development and implementation of legislation. We cannot assume that our interests will be taken care of because women we have come to trust are appointed to those positions. It is simply an unrealistic expectation, and an unrealistic demand to make on those individual women. The entry of women into the bureaucracy is simply no replacement for independent feminist analysis and strategy for change. It is also no replacement for the need to monitor the results of government action independently of the bureaucracy.

The Role of Unions

It should be clear by now that it is only through unionization and collective bargaining that women can realize the greatest economic gains—with or without the support of legislation addressing wage discrimination. There are two additional points that should be made, however, concerning the implications of pay equity programmes for unionized women, and the relationship between feminists and the trade union movement.

A real danger for organized women is that pay equity programmes may effectively place a ceiling on what it is possible to achieve in future collective bargaining. Some unions have already begun to raise strategies for dealing with wage discrimination, such as the equal base rates strategy or the restructuring of pay scales with a priority on raising women's wages. Presumably, as women gain even more strength within their unions, additional strategies will be forthcoming.

But with the implementation of pay equity, employers can easily argue that it is unnecessary to consider these alternatives because the problem has already been taken care of through "gender neutral" job comparison. Furthermore, those unions which are not yet fully committed to eliminating wage discrimination can use the existence of legislation to resist pressure from their women members to make the reduction of wage discrimination a priority.

Another important concern for those interested in wage discrimination is the relationship between feminist organizations and unions. It cannot be denied that there have been tensions between the two, frequently based on the perception by trade unionists that feminism is essentially a middle-class movement and by feminists that male dominance in the trade union movement prevents it from being a reliable ally. Certainly, there is a grain of truth in both stances. But in reality, the situation is not so clear cut. Diane Balser explores both the tensions and the potential for alliances between the trade union movement and feminism. She asserts that there have been at least three processes in the movement towards co-operation between feminism and unionism: the growth of unionization among working women; the steps taken towards bringing a feminist perspective to unionization and towards integrating gender and work issues; and the steps taken towards the resolution of direct conflicts between feminists and unions.[3] She concludes that feminists and working women's organizations need to work with the established labour movement at the same time that we need to maintain a parallel, independent women's base that will keep the feminist vision clear.

Recently, the issue of wage discrimination has been one in which feminists and trade unionists have been able, at least some of the time, to set aside their mutual suspicions. However, it would be naive to assume that those tensions are gone. Some of our informants, for example, when asked about the dangers of job evaluation, responded that raising those dangers was primarily a concern of male trade unionists who were concerned about the implications for their own jobs. Yet it is often women in trade unions who raise important concerns about job evaluation, most often through their own experience in trying to negotiate job evaluation systems. These women are not simply responding from the historical male self-interest of trade unions, but out of concern for the organized women they represent.

None of this says, of course, that feminists should uncritically support unions. Although women have undoubtedly gained strength within the trade union movement in the past few decades, it cannot be denied that the predominance of power remains with men, and that women's interests are not necessarily given priority. The only way to address this continuing imbalance of power is for women within trade unions to continue to organize in their own interests as women workers. But it is equally important to recognize that it is essential for women outside and inside unions to forge new avenues of mutual support. It also means that feminists outside unions must realize that women within unions are often in the best position to be our "experts" in the practical application of workplace strategies. We are much more likely to gain from alliances in this direction than on reliance on the "neutral" intervention by legislators and bureaucrats. Unions, at least, have the concrete, practical experience in fighting for change for their members. Notwithstanding their own agenda, they are not motivated by the need to "manage change" in the same way as government and its bureaucracy, nor must they be accountable to the self-interest of employers.

Monitoring Legislation and Its Effects

Monitoring the impact of legislation is not one of the women's movement's strong points. Too frequently, we see the achievement of legislative change as the "victory" and neglect to closely follow whether the stated intent of the legislation has been demonstrated in its result.

There are, of course, reasons why this is often the case. Given the broad range of urgent issues feminists have to deal with, there is always pressure to move on to the next one once a "victory" (or "partial victory") has been won. Feminist organizations are always short of resources, so that the work of monitoring change (as opposed to organizing for the next struggle) often seems an unaffordable luxury. Finally, the integration of some feminists into the bureaucracy of government may leave us with a false sense of security that our interests are being taken care of and, more importantly, that we will be provided with the information that shows when they are not.

But lack of monitoring by feminists plays an important function in allowing the state to make false claims concerning what has been accomplished for women. Furthermore, the issue of pay equity provides additional complications for the monitoring process. It is complex—women do not, for the most part, have the necessary knowledge to adequately monitor the process. It takes years to implement, meaning we cannot point to its flaws for years to come. Finally, it makes no specific claims as to what it will do. It claims only to provide equal pay for comparable jobs—a vague concept at best until it is translated into the complexities of job evaluation.

What all of this means is that it is virtually impossible to point to the results of pay equity programmes and say, "that didn't work." The danger is that women will believe that something *has* happened, and therefore believe that the result really does reflect the "value" of their work. As one of our informants said,

> The tragedy is that people actually start to believe in it. And then when the results come out that the gap is closed by three per cent, they might actually start to believe that that's all their work is worth.

This informant continued by saying that as a result of this type of legislation, the state is able to say, "we have a gender-neutral system, we're clean." How can we prove otherwise?

Feminists need to make a commitment to monitoring the results of legislation after it is passed. This also means that we must demand the kind of legislation that can, in fact, be monitored. It must explicitly say what it will accomplish, so we can then have a yardstick by which to measure the results. We must also demand access to the information that will allow us to monitor and the resources essential to doing the job *as part of our initial demands*, not as an afterthought. Otherwise, many of our "victories" may well turn out to be hollow ones.

Developing Standards of Success

The Need for Standards

As we said in Chapter 5, there is no consensus among our informants about pay equity legislation and its value in addressing wage discrimination. Furthermore, the current debate on whether pay equity legislation is something we should strive for is essentially reduced to people claiming "It's a good first step"—"No, it's not"—"Yes, it is." There is no concrete focus on *why* either position is the correct one. The women's movement to date has not generally developed standards against which such legislation can be measured.

The need to develop "standards of success" is not restricted to the issue of wage discrimination. Nor is this the first issue for which the lack of such standards has made reaching a consensus on strategy very difficult, if not impossible. In our future endeavors, it is important that we develop criteria that will define these standards. These criteria can then be translated into a framework applicable to a specific issue, and used to determine whether a given initiative warrants our support.

Establishing Criteria

Criteria to measure success must regnize two necessary functions for any reform—it must give immediate relief to women in the short term while contributing to continued change in the future. Given this, there are seven criteria that can be established as essential to our standards of success. The reform must:

- deliver a significant gain to women
- be implementable
- be understandable
- be something we can mobilize around
- be monitorable
- be entrenched
- avoid limiting future advances

The first question we must ask about any reform is the most obvious one: *"Does it deliver?"* This means that we are looking for a concrete, significant gain for women. We also need to ask, "How many women?" and "Which ones?" The answer to this question should not be couched in terms of principles or concepts, but rather in actual, practical gains to be realized for women. In fact, it is important to compare the answer to this very practical question to the claims that the reform makes to establish principles. The difference between real gains and statements of principle is often great and, we would assert, intentionally so. By making grand statements of principle that do not translate into significant, practical gains, governments can give the appearance of solving a problem while, in fact, sustaining it.

A related criterion is whether a reform is *implementable*, and how. It is not enough to respond to this by stating, as governments often do, that a reform must be implementable because they are doing it. The issues of *how* implementation takes place, and *how long* it will be before its effects are felt must also be considered.

The issue of whether a reform and its implementation is *understandable* is the next criterion that should be addressed. This issue relates to the question of control of the issue and the ability of those having control to advance their own interests. If a reform and its implementation are understandable by women as a group, then we can assess whether it does deliver, to what extent, and the additional demands that must be made. If the reform is not understandable, it is more likely to obscure the issues involved and ensure that further change is stopped. Our aim should be collective empowerment and control over our issues, not the benevolent intervention by governments and bureaucrats.

We must also consider whether the reform being advanced is *something we can mobilize around* and get support for. This must be true in both the short term (to achieve the reform) and the long term (to assess its impact and move for further change). Support must be achievable for both the immediate reform and the future demands that will arise out of its implementation.

We have already discussed the frequent shortcomings of the women's movement when monitoring of reforms is necessary. But difficulties in monitoring do not only stem from pressures on the movement that sometimes cause us to neglect this aspect of our work. We must demand that reforms are, in fact, *monitorable* – i.e. they must explicitly and concretely state what they are intended to achieve, government must provide information to the public so that we can determine whether this goal has been achieved, and the resources necessary to accomplish the monitoring must be made available to us.

It is also important to consider whether reforms are *entrenched* – that they will accomplish their stated intent and maintain the result as well as not being easily reversible by changes in policy or legislation. We know that our victories are frequently eroded, sometimes by direct action, but more often by less direct means.

Finally, we must ensure reforms *avoid placing limits on future advances*. If we are going to accept and support reforms that only partially address our concerns (as clearly we must often do), it is essential that these limited advances contribute to the larger goal, not prevent us from continuing to move forward.

Does Pay Equity Meet the Standards?

In Chapter 8, we will compare pay equity legislation to other strategies to address wage discrimination in order to look to future plans for change. First, however, we will consider pay equity legislation in the light of our standards of success defined by the seven criteria outlined above.

Does it deliver?

When considering pay equity, we must consider the question, *Does it deliver?* in the context of the purpose identified by virtually all our informants – to get more money for women and hence to reduce the wage gap.

So, will pay equity legislation fulfill this purpose? First, will it get more money for women? The answer is a *qualified* yes for *some* women. Even the "best" of existing legislation (in Ontario) will totally exclude 25% of working women.[4] Non-unionized women are likely to be presented with plans that are very limited in their effects. Even unionized women working in female-dominated industries (such as health care) will be compared with men whose wages are also depressed. And in all cases, job evaluation programmes can be manipulated to minimize their impact.

Furthermore, the women most in need of more money are also those excluded from the legislation. They are the lowest paid women. Many are immigrant or visible minority women who work in small, non-union firms for very low wages. One of our informants claimed that the intent of this legislation is not to reduce women's poverty, but to eliminate unequal pay. But surely if our primary goal is to get more money for women, we should insist that the methods used have some effect on those most in need, and most discriminated against.

The question of whether pay equity legislation will have a significant impact on the wage gap is more difficult to answer. Certainly the limitations on the amount of money women are going to get through job comparison means that the change in the overall wage gap will also be limited. The legislation is not focussed on reducing the wage gap but rather on comparing jobs. There is no way to forecast what the eventual impact will be. Furthermore, given that these programmes take years to implement, it will be many years before we can determine whether suspicions about the lack of impact on the wage gap are accurate. However, based on our assessment of the many limitations in the legislation and the flaws in job evaluation systems, we anticipate that the suspicions are well founded.

All of this demonstrates the significant difference between the claims of pay equity and it's practical effects. Governments can claim that they will eliminate gender-based wage discrimination. We know that the impact will be restricted for women who do receive increases, and that the women who are most in need of wage adjustments will see nothing. It is dangerous to let a government get away with claiming to achieve something which it clearly does not.

Other Criteria

The application of pay equity programmes relies on job comparison, and explicitly or implicitly on job evaluation. It also requires years to complete. Both of these factors relate to the issue of whether the programmes are *implementable*.

Clearly we are not just looking at a yes or no response to this criteria. Rather we are raising the question of whether an implementation process that is cumbersome and lengthy is in women's best interests. We suggest that it is not. It takes control of the issue out of our hands. It requires that we rely on management consultants and the employers they serve to act in our interests. It means that what is actually being done is clouded by complex methods.

This complexity relates to the third criterion: is pay equity *understandable*? In this respect, it is impossible to divorce pay equity legislation itself from the methods used in its implementation. Job evaluation programmes are complicated, and intentionally so. The vast majority were initially developed by management consultants to allow employers to justify and rationalize wage setting practices. It has always been in the employer's interest to obscure the value judgements he makes in establishing wages. The computer software the consultants use to determine the results is protected by copyright—they are under no obligation to tell us what they are doing. The effect is that the less women understand the methods that are supposedly applied in our interests, the less likely we are to challenge either the process or the results. Once again, we are presented with a method that may make claims that it does not fulfill, and it is virtually impossible for us to challenge them.

This obscuring of what is actually taking place may well influence the next criterion—the issue of whether the reform is *something we can mobilize around* and gain support for. On the one hand, the issue of wage discrimination is something that it is possible to organize around. It has been shown to be an issue of concern to large numbers of women, and it is "salable" to a significant number of men as well. But recognizing that we have a "winnable" issue does not necessarily mean that we should use this opportunity to sell the specific remedy of pay equity legislation. Pay equity, as has been shown in Manitoba and Ontario, is an issue that people will mobilize around in the short term. But because the implementation of pay equity programmes claim to solve the problem of wage discrimination, because they are complex and hide the value judgements being made in so-called scientific methods, and because their results will not be felt for years, they may, in fact, hinder continued development on the issue of wage discrimination and make it more difficult to mobilize support for future demands.

This means, of course, that the issue of monitoring becomes very important. But when we address the criterion of whether pay equity legislation is *monitorable*, it becomes clear that it will be very difficult to carry this out. Information on job evaluation systems is controlled by management consultants. They will not tell us how they achieved the results that they did. The overall impact on the wage gap will not be determined for years, and in any case, the legislation makes no claim to address the wage gap *per se*.

But even though it will be very difficult, it is important that we find ways to monitor the results of pay equity in part because there is no guarantee in the legislation that the results will be *entrenched*. Pay equity is, in the words of one of our informants, "an administrative approach to one-shot adjustments, and minimal ones at that." Once pay equity has been "achieved," there is no mechanism to ensure that whatever gains are made are sustained.

Finally, we must ask whether pay equity *avoids placing limits on future advances*. We have already discussed how the legislation may well limit gains that can be made for unionized women through collective bargaining. There is no reason to believe that this will not also be true for women as a whole. Given that it will be years before we can adequately demonstrate that pay equity programmes have in fact had a very limited impact, it will be easy for governments to claim that they have solved the problem of wage discrimination and that further action is unnecessary. Since that is likely to be the case, we must ask ourselves whether pay equity is the best we can do. We think not.

Those questioning the benefits of pay equity legislation frequently receive the response, "Yes, but what is the alternative?" In Chapter 8 we will consider various strategies that have been advanced to address wage discrimination, and how they relate to our standards of success. Finally, we will consider the question, "Where do we go from here?"

Footnotes

1. Ferguson, *The Feminist Case Against Bureaucracy* p ix
2. Ferguson, p 29
3. Balser, *Sisterhood and Solidarity: Feminism and Labour in the 1980s* p 29
4. Davis, *Address to the B.C. Federation of Labour Pay Equity Conference* p 8

ALTERNATIVES

A major factor in the women's movement's support for legislated pay equity has been the lack of an obvious alternative. Another is our acceptance of the need to base our strategy on the principle of assessing the "value" of jobs in order to compare them.

This is, however, not the only option. As we have said earlier, the main motivating factor for virtually all our informants was to *get more money for women,* and hence to close the wage gap. Pay equity based on job comparison is not the only way to accomplish this. Nor is it necessarily the best. In the short term, there may well be better means through which to put more money into more women's pockets. And in the long run, other strategies may fit better into a broad plan for women's economic independence.

Alternatives can be advanced in two areas – collective bargaining strategies and legislative strategies. As many of our informants pointed out, no one strategy is going to do the whole job. What is needed is a consideration of a range of strategies that can be developed into a long term plan.

Collective Bargaining Strategies

There can be no doubt that organizing women is the best way to protect and advance our economic position. Although a wage gap still exists for unionized women, it is also true that they are better paid than their unorganized sisters. Furthermore, experience has shown us that whatever legislative strategies are adopted to address the issue of wage discrimination can be much more readily used by women with the resources and protection of a union.

In recent years, some unions have developed strategies designed to directly or indirectly address the issue of wage discrimination. In some instances, they have been successful in winning gains for their women members. In others, victory has proved more illusive. Nevertheless, the range of strategies proposed provide some suggestions for future strategy development.

Individual Bargaining Strategies

Equal Base Rates

In Chapter 4, we discussed the development of the *equal base rates* strategy in the 1981 strike of municipal workers in British Columbia. The strategy was developed with the specific intent of avoiding a job evaluation based model. Instead, the unions involved argued that there was a standard below which their members should not be expected to work, and that the standard should be the same for men and women.

Interestingly, private sector employers at the time urged city councils to resist the equal base rates strategy and, if movement on the issue of unequal wages was necessary, to insist on a job evaluation based model. At the time, the Employers' Council of B.C. (now the Business Council) articulated this position in a letter to the city councils involved.

A strategy that elicits a negative response from the Employers' Council is one that warrants our consideration. Similarly, their presentation of job evaluation as an acceptable alternative should lead us to view it with some skepticism. Although the Business Council has since hardened its position to reject *any* mechanism to address wage discrimination, their initial willingness to consider it reflects their recognition that job evaluation is something they can ultimately control.

The equal base rates strategy is clearly limited to those workplaces where there are sizable numbers of both female and male workers and whose wage structures are such that there are identifiable female and male entry rates. In those situations, however, it provides a mechanism that can achieve more money for women immediately without complicated implementation schemes.

Other strategies exist which, while they do not directly address wage discrimination, do contribute to the narrowing of the wage gap between the bottom and the top of the wage scale and, hence, between women and men. Two of these are *flat rate increases* and the elimination of increment steps.

Flat Rate Increases

Flat rate increases mean that every worker receives the same set dollar amount of wage increase regardless of the original wage. Percentage increases have always discriminated against lower paid, often female, workers. Obviously, five per cent of $1200 provides a smaller wage increase than five per cent of $2000, allowing the absolute dollar amount of the wage gap to grow. Negotiating flat rate increases provides a mechanism through which the gap between lower and higher paid workers can be decreased.

The greatest barrier in negotiating flat rate increases (other than, of course, employer resistance) is the potential for dividing a bargaining unit along predictable lines. We saw in Chapter 4 that, once the impact of flat rate increases was demonstrated in a collective agreement, the self-interest of workers at the bottom and top of the pay scales became clear. Those who benefited from the flat rate increase vowed never again to accept a percentage. And, not surprisingly, those who would have gained more through a percentage vowed never again to accept a flat rate.

While this may cause immediate problems within the union involved, it at least has the advantage of laying out the issue clearly in the realm of political debate and struggle. And ultimately, an issue like wage discrimination must be dealt with in just such a forum.

Elimination of increment steps

The elimination of increment steps is another strategy adopted by some unions (such as the Canadian Union of Public Employees), although it is perhaps less well known outside those unions where it has been tried. Under an increment step system, workers are paid less than the full job rate during their first years of employment – often as many as four, five, or six years. They receive a wage increase (or increment) each year until they reach the full rate.

In effect, an increment step system allows employers to withhold the proper rate for the job until an employee has worked for the number of years represented by the increment steps. Increments are normally restricted to clerical workers – i.e. to women. So while these women are forced to wait years before achieving the full job rate, manual workers, generally men, usually receive the "final" job rate from the first day of employment.

Employers save significant amounts of money through the increment step system – money that should be in the hands of women. But employer opposition is not the only barrier to the elimination of increments. Women workers have been encouraged by employers to view increments as a "reward" for their years of service. Some are unwilling to support a bargaining strategy which would provide these so-called rewards to new employees when they themselves have already passed through the increment system. But unions such as CUPE point out that the fact than employers have been allowed to cheat women workers out of the proper rate for the job in the past is no reason to allow the practice to continue. Furthermore, as long as employers can hire workers for the job at significantly lower rates, the job security and bargaining position of more senior workers is undermined. If older employees can be fired or harassed into quitting, they can be replaced with new, cheaper workers. Furthermore, since part-time and casual employees are often hired at the lowest increment step, the system encourages employers to hire more of these workers at the expense of full-time employees.

Eliminating increments, on the other hand, unites women workers to fight for better wages and job security, while putting money into women's pockets. While it is obviously a strategy restricted to those workplaces where the increment step system exists, it demonstrates that there are a range of such strategies that can be adopted to get more money for women.

Restructuring Salary Scales

Some unions have adopted a strategy of restructuring salary scales with the intent of raising women's wages. In some of these cases, the proposed restructuring is a conscious attempt to avoid becoming locked into employer-controlled job evaluation systems. Instead, proposals are made to "bottom load" salary increases, or to change the rank order of job categories in an effort to recognize previous wage discrimination.

One of the problems with salary restructuring not based on job evaluation is that it is often difficult to persuade people that it is designed to address precisely the same issue as "equal pay for work of equal value" or "pay equity" claim to—i.e. wage discrimination. As one of our informants pointed out, the alternatives to job evaluation by points never seem as "scientific" and it is sometimes difficult to convince people that wage discrimination is not just a technical issue but a political one. This difficulty is reflected in the salary restructuring proposal passed by the confederation des syndicats nationaux (CSN) in Quebec.

In its previous negotiations with the provincial government on behalf of public sector employees, the CSN had won a commitment to negotiations on salary restructuring in the 1988 negotiations. The priority for the CSN in these negotiations is addressing the issue of wage discrimination. In the preceding two years, the CSN has been involved in gathering information and research on solutions to wage discrimination, as well as in discussions within the union on the issues involved. In November 1987, they published a document[1] outlining these issues as a precursor to the release of the proposal in January 1988. The proposal must be adopted by the general assemblies of the union before being filed with the government in June 1988.

One of our informants told us that the CSN did not favour job evaluation by points precisely because the issue cannot be reduced to technical considerations. It is a question of mobilizing women to fight for recognition of our worth. As she said,

> An increase in salary is not only a question of evaluation, of points. It is a question of the fight of people. It is the same with women. Our value is important, and we have to fight for it.

Despite this recognition of the problems with job evaluation, the CSN's proposal demonstrates that it is difficult to move outside of the frame work of comparing job content. Their proposal for salary restructuring, on the one hand, does not rely on complex job evaluation systems negotiated with the employer. Nevertheless, it is based on the union's assessment of job categories based on essentially the same criteria, and argues for the proposal in similar language.

The CSN defines a salary structure as "the way in which job titles are classified and remunerated in job categories, according to a certain ranking of salaries."[2] Restructuring salaries consists of "revising and modifying the present ranking of job titles and categories with respect to each other."[3]

In developing their proposal for restructuring, the CSN reviewed job content in classifications that are primarily filled by women: office staff, paratechnicals, auxiliary service workers, nurses, medical and social service technicians as well as certain professional jobs. The jobs were analyzed according to similar criteria to those used in job evaluation based pay equity schemes: qualifications, requirements and abilities, responsibilities, and working conditions. However, they are careful to point out that they did not assign points to the various criteria, but simply used their observations and analysis of job content to develop new salary scales that account for previous undervaluation of women's jobs. They describe this process as follows,

> Our analysis made us realize that the present salary structure undervalues the work done by women. We tried to correct this situation by raising the salaries of women's jobs. In this sense, our work evaluated these jobs. The overall judgement we made was based on the four criteria mentioned above. We did not quantify the differences for each job title, i.e. we did not give a number value to each. We felt we were not carrying out a mathematical exercise, but were seeing that women's work be recognized at its fair value.[4]

As a result of this analysis, the CSN developed a proposal which includes the following recommendations:

- The category of office staff will be adjusted to a salary level comparable to the category of services and crafts.
- Several salary scales in the category of office staff will be merged, reducing their number by nearly half.
- Nurses and medical technicians will have their salaries adjusted so that their maximum salary will be equal to computer technicians.
- Auxiliary nurses and beneficiary attendants will receive an increase.
- The two lowest salary scales in the professionals category will receive a salary increase.

In effect, this salary restructuring combines many of the features of the strategies outlined in this chapter. For example, the merger of salary scales is similar to the reduction, if not elimination, of increments. In addition, it essentially "bottom loads" salary increases for some low paid workers, ensuring that they will receive larger increases than other workers in the general collective bargaining that will occur in addition to the negotiation of the salary restructuring.

The CSN proposal for restructuring the salary scale represents an attempt to avoid the pitfalls of a job evaluation based plan. Furthermore, by making their own judgements as a union concerning the relative value of the jobs involved, it will be more difficult for employers to obscure the judgements that are being made under the guise of a technical approach to wage adjustments. Achieving wage adjustments becomes a process of political struggle rather than implementation by management consultants.

At the same time, however, the proposal is still within the framework of comparison of job content. It appears that the main purpose of using this framework is to provide a rationale for union demands. But maintaining this framework does pose some dangers, as it still leaves the door open to pressure from the employer to adopt job evaluation as the means to assess the relative value of jobs. One of our informants conceded that the union may be forced to agree to job evaluation in the future if the government refuses to consider alternative mechanisms, although they will try to resist this.

Although the CSN has relied on the concept of comparing job content to argue their case, it is not necessarily the only way to present salary restructuring in the interests of women. One of our informants told us that a local she had been associated with had been successful in negotiating a restructured salary scale without relying on either job evaluation or other comparisons of job content. The main problem within the union had been to convince the membership that the issue being addressed was wage discrimination and that their strategy was a viable alternative to job evaluation based programmes. It appears that more work is needed in developing such alternatives on a broader scale.

Attacking the Wage Gap: the OPSEU model

An innovative proposal for addressing the issue of wage discrimination has been developed by the Ontario Public Service Employees Union (OPSEU). In their brief on pay equity legislation to the Standing Committee on Administration of Justice in October 1986, they rejected any plan based on complex job evaluation methods administered by high priced management consultants. They advocated finding ways of delivering money into the pockets of women quickly and efficiently.

OPSEU's model is based on analyzing the relationship between wages and the proportion of women in job categories. It focusses on reducing the wage gap, not comparing job content. The proposal used their largest bargaining unit, the Ontario Public Service, as an example. They demonstrate that as the proportion of women in a job increases, the wage level decreases, and vice versa. Simply stated, they say,

> If you are a woman, the more women who do your kind of work, the less money you make; the more men who do your kind of work, the more you make.[5]

The OPSEU model uses linear regression to statistically calculate this relationship. While statistics are often intimidating, linear regression uses a single statistical technique to calculate the relationship between just two variables: the percentage of women in a job and the wage rate. Applying this technique, they found that there is a decrease of $1.15 in weekly wages for each one per cent increase in the number of women in a job. So, for example, a job group that is sixty per cent female is paid 60 x $1.15 or $69.00 per week less than a job group with no women in it. This represents $3,588.00 per year. Similarly, a job group which is one hundred percent female is paid 100 x $1.15 or $115.00 per week ($5,980.00 per year) less than a job with no women in it.

Using this technique provides a simple way of calculating wage adjustments: simply multiply the percentage of women in the job by, in this case, $1.15, and adjust weekly wages accordingly. It can be done quickly. It is fair: all groups of jobs with the same proportion of female workers receive the same adjustment. It does not carry the same potential for manipulation by employers as does job evaluation.

While the OPSEU model was developed using the specific example of the Ontario Public Service, it could certainly be adapted for use in other sectors. It represents a significant departure from the concept of comparing the "value" of jobs, and concentrates instead on a mechanism to deliver money to women as quickly and fairly as possible. It is a model which deserves further consideration in the future.

Legislative Strategies

Several of our informants indicated that there are other legislative routes to getting more money for women beyond legislated pay equity based on job comparison. In addition to alternative models specifically designed to address wage discrimination, there are other strategies, such as increases to the minimum wage, which also have an effect.

The Minimum Wage

While the level of the minimum wage is not directly related to wage discrimination, it clearly has a major impact on women. Women are more likely to be paid at, or just slightly above, the minimum wage. While there is some variation in the level of the minimum wage by province, in all cases it is fixed at a level below the poverty line.

As we noted in Chapter 5, the Ontario Equal Pay Coalition focussed considerable attention on the role played by the minimum wage in its early years. One of our informants told us that the focus more recently has been on the winning of pay equity legislation to the detriment of work on the minimum wage. She thought this had been a mistake. Given that the twenty-five per cent of working women excluded from pay equity legislation in that province are primarily the lowest paid, the result will be that those most in need of money will receive nothing. It is for these women that a significant increase in the minimum wage would have the most benefit. It is the easiest, most direct way to get more money into these women's pockets. Surely we should ensure that the lowest paid women receive something as a result of our strategic choices.

Another informant told us that it would be interesting to do research on the relative effects of increasing the minimum wage as compared to implementing pay equity—i.e. in each case, how much additional money would be received, which women would benefit most, and what would be the impact on the overall wage gap. To our knowledge, no such study has been carried out. We suspect, however, that it might demonstrate that a real increase to the minimum wage would be of much greater benefit to women at the bottom of the wage scale than any pay equity plan, and that it should be a major component of any strategy to get more money for women.

We should also demand that the level of the minimum wage not be left to the political whims of those in power so that the lowest paid workers (mostly women) have no protection against rising costs and fall even more behind in hard economic times. Part of our demand in addition to a significant increase in the minimum wage is that it should be indexed, so that increases in the cost of living are reflected in corresponding increases in the minimum wage.

This is not to say, of course, that achieving a much improved minimum wage will be an easy fight. Employers, of course, would strongly oppose it. One reason for their strong opposition is that it is relatively easy to implement and monitor, and requires no complex procedures that employers can manipulate in their own interests. It will most benefit non-union women, who are generally not in a position to take best advantage of other legislated solutions even when they are included in them. But it is precisely because there will be such strong opposition that increasing the minimum wage will require a concerted, but worthwhile, effort by all of us concerned with wage discrimination.

Developing Legislative Models Avoiding Job Comparison

To date, all pay equity legislation that has been passed has relied on job comparison in its implementation. However, criticisms of job evaluation have led some to begin considering alternative models. One such model is *A Legislative Model for Achieving Pay Equity* released by the British Columbia Federation of Labour at its Pay Equity Conference in March 1988.

Although it is called a model for achieving "pay equity," it is a significant departure from previous legislation. However, once again, there is some confusion in the language used to discuss solutions to wage discrimination. In other jurisdictions, "pay equity" has come to mean a legislative programme based on comparison of job content. And most of our informants agreed that there is a difference between the concept of "equal pay for work of equal value" and "pay equity," although the definitions of the difference were varied. At the B.C. Federation of Labour conference, one speaker said that "Pay equity is equal pay for work of equal value in two words." Certainly the fact that pay equity is "less of a mouthful" accounts for part of its appeal. But it is important that we recognize that language is an important aspect of defining an issue, and that the solution to the problem of how language is used in this case is not so simple. If we are not clear about the language we use, our issues are vulnerable to manipulation. Furthermore, the words we use do not just mean what we want them to mean; they have histories and definitions that must be accounted for. To ignore these histories and definitions may lead to our intentions being lost when programmes are implemented.

Nevertheless, the model proposed by the Federation is a creditable attempt to develop a proposal that will avoid the trap of job evaluation. Having an impact on the wage gap is the stated function of programmes under the legislation:

> The criterion for pay adjustments for all employees shall be based on the wage gap found within their respective sectors of the workforce, or, where there is not a sufficient number of men working in the sector, the wage gap in the public sector as determined at the date of proclamation of this Act shall be used as the standard.[6]

The legislation also provides for a relatively short period of implementation (three years) and requires that programmes be filed with a Pay Equity Commission for approval, presumably to ensure that they meet the intended standards of the legislation.

The main problem with the model is that, while its intent is clear, its method of implemention is less so. The proposal suggests various strategies that can be used to bring about pay equity, including, but not limited to:

- a programme of negotiated direct amounts allocated to redress pay inequity
- equalization of base entry rates
- elimination of increment steps
- bottom-end loading
- across-the-board wage settlements
- any other such measures necessary to achieve pay equity

Not surprisingly, this list includes those strategies that have been successfully used by unions to address wage discrimination. What is not clear is how a programme using these strategies would be judged as meeting the standards of the legislation. While the legislation does say that the wage gap will be the criterion used, it does not say *how much* of the wage gap must be accounted for through the programme. All of it? Half? If an explicit, practical measure is not provided, we will have no way of assessing whether the model can and will be effective.

At the conference, the OPSEU proposal was discussed as a way of implementing the model legislation, and some participants were left with the impression that the legislation would necessarily be implemented through such a method. Yet that is not implicit in the legislation. Enthusiasm about the potential for using that method somewhat obscured problems with the model legislation itself.

This proposal provides a good start in developing a model that establishes the goal as reducing the wage gap as opposed to comparing the "value" of work. It needs additional work to further develop and clarify the means through which this would be accomplished. However, this is in large part a function of the difficulty in developing legislative models that break new ground. Given that *any* government initiative on wage discrimination is highly unlikely under the present government in British Columbia, we should use the time available to ensure that the model we ultimately adopt and promote is as good as possible.

How the Alternatives Measure Up

As we discussed in the previous chapter, it is important to develop criteria through which we can measure initiatives to determine whether they meet our standards of success. We have looked at the alternatives outlined above, as well as legislated pay equity programmes described in Chapter 5, according to the seven criteria we suggested in the chart in this chapter. We have also added columns to account for the different positions of unionized and non-unionized women.

The point of this exercise is not to arrive at the ultimate solution to wage discrimination. Clearly, the alternatives we have discussed are varied in their scope, from individual bargaining units within unions, to larger more centralized unions, to broader sections of the workforce. Furthermore, we recognize that it is much easier to criticize legislation that has actually been implemented (such as pay equity) than other proposals which have not yet been adopted. On the other hand, proposals that are in a formative stage (such as that of the B.C. Federation of Labour) are more difficult to assess until their details are better developed. Our aim, however, is to present what we have learned about accomplishments to date to develop strategies that build on that experience.

The chart demonstrates that job comparison based pay equity legislation has significant problems when assessed according to our criteria. Furthermore, it demonstrates that some of the alternatives that have been advanced avoid at least some of those problems by avoiding the issue of comparing the content of jobs in favour of attacking the wage gap itself and developing mechanisms for getting

Strategy	More Money	Implementable	Understandable	Can mobilize around it	Monitorable	Entrenched	Avoids limiting future chances	Union women	Non-union women	Other issues
Individual bargaining strategies										
1)Equal base rates	Yes, for women in bargaining unit	Yes, thru collective bargaining	Yes	Yes	Yes	Yes, if equal rates maintained	Yes	Yes	No	
2)Flat rate increases	Some, for women in bargaining unit	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Poss. conflict of interests within bargaining unit
3)Eliminating increments	Some, for women in bargaining unit	Yes	Yes	Some difficulty in countering increments as "rewards"	Yes	Yes	Yes	Yes	No	
Restructuring salary scales	Yes	Yes	Difficulty in explaining how language used relates to wage discrim. w/o relying on job comparison	Probably, but arguments need clarification	Yes	Yes	Dependent on	Yes	No	
OPSEU model	Yes	Yes	Yes	Yes	Yes	Yes, if includes provision that differentials not reassert selves	Yes, if what it is to accomplish is explicit	Yes	Method could be extended for use in non-union workplaces	Needs work on how to apply more broadly
Minimum wage	Yes (esp. for lowest paid)	Yes	Yes	Yes	Yes	Yes, if indexed	Yes	Not directly	Yes	
BC Fed. model (non-comparison)	Yes	Needs further development	Needs further development	Yes	Yes, if criterion clarified	Needs further development	Unclear	Yes	Needs further development	Model needs work in translating principles to implementation
Pay equity through job comparison	Some, for some women; Lowest paid women mostly excluded	Lengthy, cumbersome process	No, control invested with consultants	Yes, in early stages Difficulties may arise later	No, too complicated, no standard thru which we can measure whether it "worked"	Unlikely, one shot mechanism	No	Yes	With difficulty	

money into women's pockets through as simple and direct means as possible.

It is also clear that we need to do further work on some of these alternatives to ensure that they meet our standards of success. For example, some alternatives need work on the language in which they are expressed, to be clear about what these alternatives can (and cannot) accomplish. For example, we need to be careful that we do not try to "sell" proposals for the restructuring of salary scales by using the language of comparing job content. If we do so, we may well fall into the trap of being forced to justify restructuring through job evaluation techniques – the very method we are trying to avoid.

Other options need work to develop their concrete application. The OPSEU model, which can work well for a large workforce with a single employer (like the Ontario public service for which it was developed), could be adapted to other sectors. But work needs to be done to determine how, for example, a sector would be defined for the purposes of applying such a model. The B.C. Federation of Labour model, which articulates the principle of avoiding job comparison in addressing wage discrimination, needs further development to translate the principle into practice.

What all of this demonstrates is that we need to carefully assess our progress on any issue in order to continue to develop our strategies. And we need to do this by continually referring back to the bottom-line issue we want to address. In the case of wage discrimination, virtually all of our informants agreed that this issue was to get more money for women and close the wage gap. Why, then, should we not insist that the initiatives advanced by government demonstrate at the outset that they will accomplish exactly that?

Where Do We Go From Here?

The development of proposals for change and the strategies to promote them should not be static. Women's issues such as wage discrimination are so pervasive and well-entrenched that they require consistent review of our experience and changes to our strategy based on what we have learned.

Women in different provinces, of course, must develop somewhat different strategies for proceeding on the issue of wage discrimination depending on different conditions. In those provinces where pay equity legislation already exists, we need to use it to best advantage. Given what we know about job evaluation, this won't be easy. We will have to demand maximum disclosure of information – to be told *how* the systems are applied as well as the results. We must develop our own experts, so that we are not reliant on the wisdom of management consultants eager to dominate the job evaluation market. We also need to monitor the results as effectively, systematically, and consistently as possible to gain ammunition for the next round of the struggle, and renew efforts designed to promote additional strategies to get more money for women.

Where job comparison based pay equity legislation does not exist, however, we can learn from experience elsewhere in the development of strategies and proposals for change. We must choose strategies that maintain the issue in the realm of political struggle, not reduce it to technical procedures controlled by "the experts" and subject to manipulation by employers and the state. We should ensure that our proposals are grounded in the fundamental issue – to get more money for women – and not be diverted into models that force women to justify wage increases through comparisons of job content. We must look to a range of strategies that will meet the needs of both unionized and non-unionized women, and guarantee that the women most in need of more money are not left out when government initiatives are made. Finally, and perhaps most importantly, we must expand the forums for debate of our strategies to build on our experience and to move our interests forward.

Footnotes:

1 Confederation des syndicats nationaux, *Public Sector Salary Restructuring*

2 Confederation des syndicats nationaux, *Public Sector Salary Restructuring: Proposal* p 3

3 CSN p 3

4 CSN p 10

5 Ontario Public Service Employees Union, *Meeting the Challenge: Pay Equity in Ontario* p 17

6 British Columbia Federation of Labour, *A Legislative Model for Achieving Pay Equity* p 4

Appendix A:
Convention 100 of the International Labour Organization

The Equal Remuneration Convention
Article 1
For the purpose of this convention:

a) the term "remuneration" includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment.
b) the term "equal remuneration for men and women workers for work of equal value" refers to rates of remuneration established without discrimination based on sex.

Article 2

1. Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.

2. The principle may be applied by means of:

a) national laws or regulations;
b) legally established or recognized machinery for wage determination;
c) collective agreements between employers and workers; or
d) a combination of these various means.

Article 3

1. Where such action will assist in giving effect to the provisions of this Convention measures shall be taken to promote objective appraisal of jobs on the basis of the work to be performed.

2. The methods to be followed in this appraisal may be decided upon by the authorities responsible for the determination of rates of remuneration, or, where such rates are determined by collective agreements, by the parties thereto.

3. Differential rates between workers which correspond, without regard to sex, to differences, as determined by such objective appraisal, in the work to be performed shall not be considered as being contrary to the principle of equal remuneration for men and women for work of equal value.

Article 4

Each Member shall co-operate as appropriate with the employers' and workers' organisations concerned for the purpose of giving effect to the provisions of this Convention.

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JUST GIVE US THE MONEY
A Discussion of Wage Discrimination and Pay Equity

Just Give Us the Money looks at the history of strategies to address wage discrimination, including legislated pay equity. It examines the way in which the state responds to women's issues and, in the process, takes control of them. The book raises questions concerning issues central to pay equity: is there a gender-neutral method of determining the value of work? What are the problems with job evaluation? Is it a viable way to determine wages? How does the development of bureaucracy dealing with women's issues affect how solutions to wage discrimination are implemented?

In addition to analyzing strategies that the women's movement, trade unions and others have adopted to date, *Just Give Us the Money* also suggests alternatives for the future. It is of interest to all those concerned with developing initiatives to address wage discrimination and to establish women's economic independence.